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The major purpose of this study is to understand the concept of permission and relate its logical peculiarities to the activities, linguistic and non-linguistic, in which it finds application within authority-subject institutions. It is a conceptual, not an empirical, study proceeding from data provided by philosophical difficulties and controversy, ordinary language forms, and some elementary principles of deontic logic. Numerous illustrations and examples of a fairly informal nature are provided. Conclusions are presented which pertain to the connection between: (1) the idea of having permission to do a certain act and freedom to choose to do it or not, (2) permission and the absence of prohibition, and (3) permission, permissibility, and practical possibility. (Author/RD)

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PERMISSION AND PERMISSIBILITY

September 1967

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Permission and Permissibility

Project No. 5-0339
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Nancy Gayer

September 1967

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University of Cambridge

Cambridge, England

To those but for whose kindness and generosity this study would not have been possible, without whose quiet encouragement it would not have been actualized: the staff of the Financial Board of the University of Cambridge.

SUMMARY

Permission and Permissibility

Problem. This study is an attempt to understand the concept of permission and to relate its logical peculiarities to the activities, linguistic and non-linguistic, in which it finds application.

Objectives and Methods. Being a conceptual not empirical study, it proceeds from data provided by philosophical difficulties and controversy, by the forms of ordinary language and some elementary principles of (deontic) logic. It seeks by argument and analysis to establish a number of conclusions about the structure of speech, thought, and action within authority-subject institutions (in an extremely broad sense). Illustrations and examples are mostly of a fairly informal nature, involving direct communication between, say, teacher and pupil, and are intended to show how the speech-acts discussed fit into the wider activities which give them their point and intelligibility.

Results. Part I investigates the close connection between the idea of having permission to do a certain act and of having freedom to choose to do it or not. A discussion of understatement as a fault in the speech-act of asserting that an act is permitted reveals why a report of such a permission entitles a hearer to conclude that one is permitted also to refrain. As regards utterances which give permissions, a somewhat stronger conclusion is based on an analysis of the deontic propositions which are asserted in permission-reporting utterances and made true by permission-giving utterances as having an oratio obliqua structure: an authority, as sole determinant (through what he has and has not said) of the deontic situation within his jurisdiction, is constrained to endow any permitting act not simply implicit in the issuing of a command, with a 'two-way' permissive import that grants the recipient freedom of choice.

These conclusions lead to an elucidation of the essentially conventional and external nature of the kind of reason for action given by commands, as contrasted with other types of reason-giving speech-act which depend for their reason-giving function on success in the dimensions of truth and relevance to antecedent inclinations to action of the recipient. The resultant external character of authority-imposed obligations as reasons for action explains (a) a certain logical secondariness and negativeness which permission shares with its physical analogue, letting or non-interference and (b) certain presuppositions as to the wants of the subjects to whom they are directed.

Part II begins with a critique of the account of normative discourse underlying G.H. von Wright's treatment of permission in his Norm and Action, in order to defend the *oratio obliqua* analysis of the notion of having a permission and to distinguish the concepts of obligatoriness and practical necessity ('must'). The results are used in support of an analysis of the illocutionary force definitive of permitting as that of refraining from forbidding. This conception of permission is applied in assessing the logical relations between commands and permissions, and between permission and the absence of prohibition. Finally, in Part III, some problems about the notion of a permissive rule prompt an examination of certain aspects of the nature of obligatoriness and permissibility in areas of action not subject to authority control, and lead back to the topics of free choice and practical possibility.

Implications. Although theoretical in orientation, the examination has produced material for drawing substantive implications for such practical school problems as the role of principal and teacher vis-à-vis those subject to their control, grounded upon the understanding of permissive notions (which are to be contrasted with lack of control no less than with authoritarianism) which this study aimed to provide.

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INTRODUCTION

> 'What do you see in the garden?' he asked her in French.
>
> 'I see many flowers', she replied in a sweet, small voice and with an accent as good as his own.
>
> 'Yes, but not many good ones. However, such as they are, go out and gather some for ces dames.'
>
> The child turned to him with her smile heightened by pleasure. 'May I, truly?'
>
> 'Ah, when I tell you', said her father.
>
> The girl glanced at the elder of the nuns. 'May I, truly, ma mère?'
>
> 'Obey monsieur your father, my child', said the sister blushing again.
>
> The child, satisfied with this authorization, descended from the threshold and was presently lost to sight. 'You don't spoil them', her father said gaily.
>
> 'For everything they must ask leave. That's our system. Leave is freely granted, but they must ask for it.' (Henry James, Portrait of a Lady, Penguin edition, p. 230.)

This study could be regarded as a philosophical commentary on the above passage. It is an attempt to understand the concept of permission and to relate its logical peculiarities to the activities, linguistic and non-linguistic, in which it finds application.

The source of my interest in permission was educational: the widespread use in American classrooms of ostensibly permissive language and its role in concealing from teachers and principals the unrealistic nature of their belief that they do not give orders. This belief still lends support to an orthodox educational philosophy (stemming but now far removed from a radical tradition) that views order-giving as undemocratic and confuses the exercise of authority with authoritarianism. It also leads school practices in a direction the opposite of that intended, curtailing freedom rather than enlarging it.[1]

Although no special educational preoccupations will be evident in the following pages, my aim throughout has been that the findings of this study should eventually find a fruitful application in the field of philosophy of education.

Thus neither in intention nor in execution is this a work on deontic logic, although it makes use of some elementary principles of deontic logic and pays attention to the non-technical sections of certain writings in that field. For permission, it seems, is a comparatively neglected concept among philosophers, despite its connections (some of which are explored below) with the much-discussed notions of command and obligation. In particular, apart from specific points owed to various authors as mentioned in footnotes, I should acknowledge a general debt to G. H. von Wright, whose book Norm and Action[2], though subtitled 'A Logical Enquiry', contains the only extended philosophical treatment of permission (which he finds problematical) that has come to my knowledge -

---

[1] I have tried to show how these confusions pervade American schools and frustrate the aims of education in 'On Making Morality Operational', Phi Delta Kappan, Oct. 1964.

[2] Georg Henrik von Wright, Norm and Action, A Logical Enquiry (London: Routledge & Kegan Paul 1963), hereafter referred to as 'NA'.

-his views will be criticized in Part II of this study, but I would like to say here how much I owe to the stimulus of the philosophical sections of his book.

I have also found it convenient to use the symbolism adopted by von Wright in his essay 'Deontic Logic'.[3] The letters 'A', 'B', etc. are to be regarded as abbreviated descriptions of actions - specifically identified in the context or left undetermined as a matter for arbitrary choice. The wide sense given to 'action', as covering anything that can be permitted or enjoined, will be matched by a liberal usage of 'description', instances of which may include expressions identifying the particular agent(s) with whose behaviour a permission or injunction is concerned, and/or a specification of temporal or other conditions of application.[4] It will be convenient to refer to the agent as the 'subject' and the commander or permittter as the 'authority' - the examples should soon dispel any illiberal overtones of these terms. 'Not-A' is used as the true contradictory of 'A', for the description which is satisfied if and only if 'A' is not satisfied; the negation-act of A (not doing A) is thus a wider notion than that of refraining or abstaining from A (this being, roughly, the notion of intentionally not doing A). Finally, formalized deontic sentences may be constructed by prefixing to these expressions what von Wright calls 'the deontic operators': 'O-' is read as 'is obligatory', 'P-' as 'is permitted' and 'F-' (a convenient addition) as 'is forbidden'.

---

[3] Mind, Vol. LX, 1951, hereafter referred to as 'DL' and cited by the pagination of its re-publication in Logical Studies (London: Routledge & Kegan Paul 1957).

[4] There is no departure of principle here from 'Deontic Logic', except that Smith's opening the window at 2 p.m. might there be disqualified as a permittable action, on the grounds that it could not be repeated a number of times, unlike opening the window as such (cf. DL p. 59; also NA pp. 36-7, p. 81); yet it is something that may either take place (be performed) or not, and as such can be permitted.

For introductory purposes, this should suffice; the task of giving a more detailed elucidation of the notions occurring in the previous paragraph may be left to the body of the work, to be undertaken at the various appropriate stages of its general development. It is advisable, however, to add a note of caution about the symbol 'O-' and its interpretation in terms of the ordinary language expression 'is obligatory'.

'Permitted' and 'forbidden' consort less closely with 'obligatory' than they do with 'commanded', 'enjoined', 'ordered', and the like. The applicability of 'obligatory' to everything of which ordinary English would correctly use the latter three terms seems to become more doubtful with each in turn; conversely, it is certainly not true that every obligatory thing is also commanded, as opposed, for example, to being something promised, while to translate the 'O-'operator as meaning that A ought to, or even must, be done is different again. And although it is proper to speak of commands making it obligatory to act in the required way, the term 'obligation' itself has, paradigmatically, a certain preference for the results of undertakings such as promises or the acceptance of favours, offices and the duties of a job.

My concern, for the major part of this study, is not with actions _held_ obligatory under some rule or principle of morals or manners, of a language, game or professional association, but with actions _made_ obligatory as a result of the agent being put under obligation to perform them. If these may be divided according as their obligatoriness is the result of an imposition or of an undertaking (the two main species of obligation-creating conduct), chapter 3's analysis of 'obligatory _qua_ enjoined' may be generalized to take account of the 'interesting inverse relationship between promising and commanding with respect to resultant obligations', namely

> While X's (properly) promising something to Y creates a corresponding obligation on X's part, X's (properly) commanding something to Y creates a corresponding obligation on Y's part.[5]

Accordingly, for the sake of simplicity of exposition, I shall assume two conventions, one restricting terms like 'command/order' and 'commanded/ordered' to cases which do involve obligation - these are just those cases to which a concept of authority is applicable, so the holding of an authority-subject relationship may be taken to delimit the domain of all three deontic operators alike; the other is simply to pretend when dealing with that domain that things obligatory always derive their obligatoriness from the exercise of authority in commands. Linguistically, while the first involves little more than a convenient idealization of standards typical for the central area of a concept, the second commits a positive impropriety; but the offence will be redeemed, I hope, by the clues as to the nature of permissibility in general, and so as to at least some aspects of obligation, provided by the study of deontic discourse in authority-governed areas of action to which most of the following pages are devoted.

---

[5] Nicholas Rescher, _The Logic of Commands_ (London: Routledge & Kegan Paul 1966), p. 9 fn. 3; cp. Wilfrid Sellars, 'Imperatives, Intentions, and the Logic of "Ought"', _Morality and the Language of Conduct_, edd. Hector-Neri Castaneda and George Nakhnikian (Detroit: Wayne State University Press 1963), pp. 164-5 and Joel Feinberg, 'Supererogation and Rules', _Ethics_, July 1961, p. 277; also below chap. 3, p. 43 fn. 10, chap. 4, p. 95 fn. 17. A more detailed mapping of the complexities of usage than my purposes require is available in R.B. Brandt, 'The Concepts of Obligation and Duty', _Mind_, July 1964, while the bearing of some of the requisite distinctions on more technical principles of deontic logic than I shall be concerned with is discussed by E.J. Lemmon, 'Deontic Logic and the Logic of Imperatives', _Logique et Analyse_, April 1965.

Lastly, I not only must but want to acknowledge the debt of gratitude I owe to Mr. M. F. Burnyeat. Throughout my study he was at hand, a sounding board against which to express my ideas, an exemplar who constantly impressed upon me the need for care in elucidation and argument. I learned from him what it is to do philosophy. I should like to hope that this work, apart from its faults, is a worthy token of his efforts.

PART I

Permission and Freedom of Choice

Preface

The general purpose of the first part of this study is to lay the basis for an understanding of the concept of permission by exploring some of the connections between permission and freedom of choice. As a starting point and organizing principle for this task, I take the question, 'In what way, if any, does permission to do an act, A, include permission not to do it?'.

Chapter One

Permission-Reporting Utterances

> In the smoking compartment, ...not-smoking is permitted and also smoking. But in the non-smoking compartment, not-smoking is permitted and smoking forbidden.[1]

There is a dictum to be found in the literature on deontic logic and shown in the relationship of subalternation in the deontic square of opposition below[2], that obligation entails permission.

Not-A not permitted Not-A forbidden A obligatory	A not permitted A forbidden Not-A obligatory
A permitted A not forbidden Not-A not obligatory	Not-A permitted Not-A not forbidden A not obligatory

---

[1] DL p. 63.

[2] A.N. Prior's systematization of the basis of von Wright's 1951 deontic logic, with von Wright's term 'permitted' substituted for Prior's 'permissible', Formal Logic (Oxford: Clarendon Press 1962) 2nd ed., p. 220.

This means that any obligation is accompanied by a 'one-sided' permission for the obligatory act alone. Having permission to do an action might seem to be inseparable from, and worthless without, having permission to refrain if one chooses, but the square denies that this is so. It claims, for example, that in a non-smoking compartment, not smoking is not only obligatory but also permitted; passengers in such a compartment are granted a permission without being left with any freedom of choice.

Since 'PA' and 'P Not-A' are related to one another as the subcontraries of the square, it also follows that the fact that smoking is permitted in a smoking compartment does not by itself entail that it is permitted not to smoke there. To designate a compartment as a smoking compartment would seem to require the issuing of two separate permissions, permission to smoke and permission not to smoke. Our examination of the concept of permission may begin, therefore, by considering the thesis that obligation entails permission.

Certainly, at first encounter the assertion that in a non-smoking compartment passengers are permitted not to smoke sounds rather peculiar. The justification suggested by the square is that whenever a command (order, injunction) makes it obligatory for a subject not to do A, it necessarily at the same time permits him not to do it, for if it did not do so, it would be self-defeating: the command's failure to provide, or its withholding of, permission not to do A would constitute a forbidding of Not-A, so that one and the same ruling action would simultaneously both command and forbid abstention from the same act.

But what does permission mean in such circumstances? Normally permission implies freedom from restraining norms. Here, however, the subject is free only to do that which he is obliged to do. Paradoxically, he is free because he is obliged, but it is a funny sort of freedom, since he is forbidden to do otherwise. He might well ask 'What kind of freedom is this?'. The answer coming back might be 'What kind of obligation would it be if it did not leave you free to fulfil it?'.

Although permission to do the obligatory may sound contradictory, it is no more so than the results of the subalternation relation in other squares of opposition, e.g. that 'All S is P' entails 'Some S is P'[3] or that 'P is necessary' entails 'P is possible'. The solution to the apparent paradox is the same as for these: to notice that sometimes the conditions for the obtaining of a state of affairs are different from the conditions which make it appropriate to assert that that state of affairs obtains[4]: in the particular case of the freedom given by a permission, the conditions which make such a freedom worth having are not the same as those which make it worth mentioning. What makes permission to do the obligatory sound somewhat paradoxical is that permissions are normally mentioned only when they are free of accompanying obligations - a maximum-security prisoner is permitted to remain in prison, and his jailer's duties entail his being permitted to keep the cell-door locked, but neither permission is likely to be remarked upon when the two discuss their respective obligations. This is because the presence of the entailed permission is really no more than the absence of a prohibition in conflict with the obligation. To say, as was said on page 8, that no command can withhold permission for the act it enjoins, is really to say simply that no command can simultaneously prohibit the act it is enjoining without stultifying its own aim and thus failing to establish an obligation. Given that there is an obligation in force, the command which laid it down cannot itself have been rendered self-defeating by being simultaneously combined with a prohibition for the very same act. So the fact that there is an obligation to talk about at all presupposes consistency in the original command establishing it, and to say that one's obligation is accompanied by a permission is merely to make the trivial point that it was established by a self-consistent command, i.e. that it is an obligation. There is no reason to remark on the obligation's being accompanied by a permission, i.e. by the absence of a prohibition for the same act, unless some further factor intervenes upon the deontic scene, as when the authority or one of his subordinates issues a further ruling which conflicts with the first by forbidding the act the original ruling enjoined. If this new ruling does not invalidate or cancel the first ruling, neither can it invalidate its permissive import (for that is nothing more than the authority's having refrained, when laying down his original ruling, from forbidding the enjoined act); but it does conflict with it by forbidding the subject to do the act the first ruling permitted, i.e. by imposing a prohibition on the very act which that ruling refrained from forbidding.

---

[3] This is, I am aware, a controversial entailment, but my present purpose requires the use of the traditional logic's square of opposition only as an illustrative example of another square with the same structure.

[4] On the significance of this distinction, see John R. Searle, 'Assertions and Aberrations', British Analytical Philosophy, edd. Bernard Williams and Alan Montefiore (London: Routledge & Kegan Paul 1965).

A conflict of this sort is reported[5] to have occurred in South Africa, where a woman by getting married lost the right to live in the township of her parents, yet was unable to obtain permission to live elsewhere with her husband. Consequently she was, as the judge said, 'living in a legal limbo'. The logic of her situation after marrying can be represented as: FA, therefore P Not-A, but F Not-A, where 'A' stands for the action of living with her parents. Since she was forbidden to live in the area where her parents resided (she was actually convicted of being unlawfully present there), she was, by the subalternation entailment, permitted not to live there; but at the same time her inability to obtain permission to live anywhere in particular outside the area, such as with her husband, meant she was forbidden to do the very act the first prohibition entailed a permission for. She could well protest to an obstinate bureaucrat that she was entitled to receive permission to live somewhere in particular outside the area. But for the second prohibition's coming into conflict with it, this permission to live outside her parents' residential area would have remained implicit in the situation, unremarkable and so unremarked upon.[6]

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[5] The Times, Oct. 8, 1965.

[6] Searle goes too far in saying that an utterance cannot be an assertion at all unless 'there is some reason for supposing the state of affairs asserted to obtain is worthy of note or in some respect remarkable'. 'Assertions and Aberrations', loc. cit., p. 53.

More is involved, however, than the unremarkableness in conflict-free situations of the entailed permission. For in such situations to say that one has permission to do something one is in fact required to do is to do more than remark on a triviality; it is to say something which is positively misleading unless the existence of the obligation is clear in the context of communication. Consider how misleading it is for someone to report that he has worked four hours today when he has actually worked eight hours. If he worked eight hours it is true, necessarily, that he worked four hours, so his choice of words to this effect cannot involve any semantic impropriety arising from a breach of the conventions which give them their meaning. Yet, since eight is more than four, he has given a misleading picture of the situation. If the jailer of the above example remarked to his prisoner while locking him up that he had permission to keep the cell door locked, his statement would be at fault in an analogous way: though perfectly true it would distort reality. To explain the nature of this kind of fault in speaking and to trace its implications for the square will require taking a somewhat less abstract view of deontic language than that embodied in the square and considering it in the context of actual deontic discourse.

The square deals with logical relationships which hold between its propositions independently of their expression in speech-acts. But when the propositions occur asserted in reports of an act's deontic status, or unasserted in questions about it, or in any of the other kinds of speech-act that constitute actual deontic discourse, their expression by speakers is subject to rules for 'doing things with words', conventions for communicating the intended force of an utterance or for 'the securing of uptake'[7]. Submission to these conventions is a condition of communicating with other people through the speech-acts of asserting, commanding, questioning, etc. because only by interpreting a speaker's utterance of a meaningful sentence in the light of these conventions can the audience understand it as meant to have the force of an assertion, command, or question, etc., as the case may be.

The expressing of deontic propositions is no exception to these requirements for the performance of speech-acts. In expressing a deontic proposition, a speaker is not only bound by conventions which enable him to convey his intention of expressing by the utterance of a given sentence some particular deontic proposition; he must also attend to the conventions for conveying the intended force of his utterance if he is to succeed in performing the particular speech-act of which his proposition-expressing is meant to be a subsidiary part: asserting that proposition, questioning it, hypothesizing it, and so on.

The speech-act of stating that one has permission to do a certain action is an instance of the general type of speech-act known as asserting, for which the standard of correctness is the attainment of truth. An utterance can only be understood as meant to have the force of an assertion of the proposition expressed in it if it is taken to aim at expressing a proposition which is true rather than false. To make an assertion thus involves setting up a standard by which the speech-act is to be judged for correct or incorrect performance. A speaker must communicate an aim of attaining truth if he is to make clear that he does not, for example, mean his utterance to have the force of a question as to whether or not the proposition he expresses is true. Success in the aim of being correct by this standard is not, of course, a condition of successfully asserting, because success in attaining truth depends on what states of affairs obtain in the world; but it is in a speaker's power to aim at truth, and to make an assertion he must sucessfully manifest such an aim, sincerely or insincerely, in order to communicate the intended force of his utterance. In thus setting up truth as the standard for the assessment of his action, he submits to the basic convention governing the use of words for asserting: the rule that assertions are to attain truth.

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[7] J.L. Austin's summary description for 'bringing about the understanding of the meaning and of the force of the locution'. How To Do Things With Words (Oxford: Clarendon Press 1962) p. 116.

The standards of correctness for asserting in general apply also, mutatis mutandis, to the performance of more specific types of truth-claiming act, such as reporting to someone what is or is not required of him by the relevant authority in a particular area of possible action on his part. Here, too, the speaker is required, as a necessary condition of performing the act, to manifest, explicitly or implicitly, an intention to aim at truth: not truth in general but truth about some particular matter and within certain definite limits, such as the relevant authority's regulations on parking in London, or more narrowly still, the deontic status of parking on a given street at a certain time of day. The limits within which any given assertion aims at truth will be determined, in an unavoidably relative way, by the scope of a question, by the context of a discussion, by what the speaker believes to be relevant to the interests of the hearer, or in any number of other possible ways. It is up to the speaker to make clear, explicitly or implicitly, how far his intentions extend. What matters is that if truth within these limits is not attained, the aim, or ostensible aim, of the speech-act of asserting this proposition in these circumstances is at variance with the reality of its achievement. And this is a fault in speaking, because the assertion has not attained the level and extent of truth at which it professed to aim; it set itself a standard of correctness which it did not come up to, and so it must be judged faulty.

False statement, in the sense of a statement the contradictory of which is true, is not the only way of committing a fault in speaking by infringing the rule that assertions are to attain truth about the particular matter of fact set as the goal by the context and purpose of the utterance. Understatement, or 'falling below the truth in stating'[8], is a fault in speaking when a statement falls below the level of truth it professes to aim at without actually asserting a proposition which is contrary to the facts. Asserting in general is defined simply by reference to its function of aiming at truth, but particular assertions do not normally aim just to state some truth or other, but to give the correct version of the facts in some particular matter; and in their fulfilment of this more specific function there can be degrees of infidelity to the relevant facts. In the assessment of an assertion's achievement of its aim, the correctness represented by 'the whole truth in the matter' stands at one end of what Austin describes as

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[8] Oxford English Dictionary, s.v. 'understate'.

> a general dimension of being a right or proper thing to say as opposed to a wrong thing, in these circumstances, to this audience, for these purposes and with these intentions.[9]

Within this dimension one can criticize a statement for committing, relative to its ostensible purpose, the fault of understatement without going so far as to accuse it of falsity.

Consider now an assertion of the proposition that PA, made when the fact of the matter is that OA. If it is understood in the context that A is obligatory, an assertion of the fact that the act is permitted will, as has been explained[10], normally be trivial and pointless: freedom from prohibition against doing the act, being a condition of an act's obligatoriness, is not worth mentioning unless the freedom which the act enjoys under the obligation-imposing ruling is in conflict with a prohibition against doing the act stemming from another ruling. But if the obligatoriness of A is not understood in the context, the assertion's force will normally be to the effect, not that the act enjoys freedom from prohibition against doing the act under some obligation-imposing ruling, but that it is free of any prohibition (from the relevant authority), including any prohibition against refraining from it. But this, 'prohibition of Not-A', is just another way of expressing the obligation which actually obtains.

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[9] How To Do Things With Words, loc. cit., p. 144.

[10] Pp. 9-11 above.

(No act has a deontic status without its negation-act having one too, since any deontic situation must realize one or other of the trio of conjunctions: (OA . F Not-A) v (FA . O Not-A) v (PA . P Not-A).[11]) In these circumstances, therefore, the assertion will imply that the act is free of the obligation which actually covers it.

Thus, suppose Gordon, sent out by his father to buy some cigarettes, is asked by another customer whether he has his parents' permission for this purchase and replies (quite truly) with an innocent-sounding 'Yes'; it will be his fault if his concealment of the fact that he was acting under his father's orders leads the customer to form an adverse judgment on the level of discipline maintained by his parents. For the question was obviously a request to be told the whole truth about the deontic status of this purchase, based on the assumption that it might well be forbidden. Gordon's bare assertion that PA (where 'A' stands for buying cigarettes) is sufficient to rule out such a prohibition, but it is also sufficient to rule out, by implication, the prohibition against refraining from making the purchase which is the obligation actually in force.

What sort of implication is this? We may call it a 'pragmatic' one, but this label scarcely does more than mark the fact that it is not a logical one, that 'PA' does not entail 'Not OA'. Nor can implying that Not OA be something which is entailed by asserting that PA, as enjoining an action entails permitting it, for the implication does not hold in contexts where it is understood that 'OA' is true, or where the speaker makes it understood, by appending to his assertion of 'PA' a clarification such as 'I should warn you that A is actually obligatory as well'. This shows that a necessary condition for the obtaining of the implication is the absence of 'OA' from the total 'picture' of the deontic situation given by the combination of what is presupposed and what is said in the context. This condition is not, however, sufficient by itself, because if it is understood in the context that the sole question at issue is the truth or falsity of 'FA', the assertion of 'PA', for example in order to contradict someone's erroneous belief that FA ('You're wrong, you know, it's certainly permitted to do A'), will be neutral in its implications as to the truth or falsity of 'Not OA'.

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[11] For an elaboration of this point, see chap. 3 below.

The peculiar feature of this last exception is the restricted aim of the assertion in question. This differentiates it from the other cases, where the aim manifested in the assertion is the attainment of the whole truth about A's deontic status; asserting that PA with this fuller aim in a context where it is not presupposed or made clear that OA thus appears to be the necessary and sufficient condition for the obtaining of the implication.

An implication which gets attached to the speech-act as a result of an interaction between the information-giving task the speech-act is to fulfil and the contextual conditions in which it has to do it can only be removed by changing the contextual conditions or altering the scope of the information about A's deontic status which the speech-act aims to give. Thus suppose at the tobacconist's Gordon adds, 'But I don't mean to leave you with the impression that I wasn't told to buy cigarettes'. The customer could understand this as an oblique indication of the obligation he was actually under, in which case Gordon would be changing the contextual conditions by making the truth of 'OA' clear; alternatively, the addition could act as a way of confining the aim of Gordon's answer solely to the question of whether or not A was permitted - but that would mean, in effect, a snub to the customer, a refusal to answer in the terms presupposed by a question to which the truth-value of 'OA' is clearly relevant. What Gordon can't do is simply cancel[12] the implication without affecting the status of his speech-act as an answer to the customer's question. An assertion with the narrower aim of just settling the truth-value of 'PA' will not carry the implication, but neither will it answer the question in the way requested. Given that the assertion is to have the fuller aim, the truth of 'Not OA' is something that the speaker is committed to or is obliged to take responsibility for in virtue of a rule requiring the attainment of the full truth about A's deontic status, submission to which (not, of course, conformity to which) is a condition of performing the type of speech-act exemplified by the assertion of 'PA' in such contexts.[13] In a context where such a rule is in operation, the making of this assertion will effectively involve the speaker in vouching for the truth of 'Not OA', which gives a good sense in which he may be described as implying or giving his hearer to understand that it is the case. His assertion will have, in virtue of this rule for its correct performance, the force of an exclusion of its being the case that OA, and so will be misleading when 'OA' actually obtains.

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[12] I have borrowed this notion from H.P. Grice's discussion of various types of implication in 'The Causal Theory of Perception', Arist. Soc. Supp. Vol. XXXV, 1961, pp. 126-32.

Normally only the assertion of a proposition which is false and so is the contradictory of a true one has the force of ruling out, or excluding, the state of affairs which actually obtains. Understatement relative to the aim of an assertion, though just as much a fault in speaking as false statement, is not always misleading as well, for it does not always have the force of a statement which positively _excludes_ what is in fact the case. For example, to ring up the RSPCA and make a less specific claim than is correct for _the purpose of_ the assertion, by saying one wants to report the loss of one's pet, without specifying whether it is a cat or a dog or a rabbit, etc., is to understate the relevant facts with respect to the purpose of ringing up the RSPCA to report them, because the report fails to tell the organization what kind of animal to look out for; but it is not misleading, because it does not exclude any particular species of domesticated animal. The hearer at the other end of the telephone knows that the pet must belong to some particular species and so will be prepared by the inadequacy of the speech-act to ask which. Such an unspecific report cannot, for reasons of logic, give the whole truth in the matter. But it _is_ logically possible for an act to be free both of any prohibition against doing it and of any prohibition against refraining from it, just as it is logically possible that the sentence 'I worked four hours today' gives a correct version of the _total_ number of hours the speaker worked. A speaker who uses this sentence in an assertive way cannot evade the responsibility of taking account of the logical possibilities inherent in the concepts he is exercising; he must take steps to counteract the effect that these possibilities will have on the force of his utterance if he wishes to avoid being misleading. Otherwise the fact that it is perfectly possible that 'I worked four hours today' is a correct representation of his day's efforts will give his utterance the force of an assertion aiming to give a complete and correct report, whether or not this is the force he had meant to give it.

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[13] For illustrations of this idea of a speech-act requiring for its performance submission to a rule making the speaker 'responsible' for something's being the case, see William P. Alston, _Philosophy of Language_ (Englewood Cliffs, N.J.: Prentice-Hall 1964), p. 41ff. Alston chooses the term 'responsible' because 'Responsibility for x being the case is essentially connected with the possibility of being called to account if x is not the case' (p. 41). Cp. Bernard Mayo, _Ethics and the Moral Life_ (London: Macmillan 1958), pp. 76-7.

Similarly, the proposition asserted by Gordon in the tobacconist's shop is true and does not _entail_ that Not F Not-A, i.e. that Not OA, but even if the customer is not actually misled into thinking badly of the parents, the force of the speech-act _was_ that of an assertion aiming to give a correct version of the deontic situation, and so it must be held to commit the fault of misleading understatement through leaving out the fact that F Not-A. This may be a 'sin' of omission rather than of commission, but it is still a fault in speaking.

For the speech-act of reporting the deontic status of an act will always be understood to aim at the whole truth on the matter at issue unless the speaker makes clear his contrary intentions, just as any pronouncement about the number of hours a man has worked on a given day will have the force of a statement of the total number unless the speaker ensures that something different is communicated as the intended force of his utterance. So in a communication context where the obligatoriness of A is not presupposed although A is in fact obligatory, and where the speech-act does not profess some special purpose qualifying its aim of stating the whole truth about the deontic status of A[14], the assertion of the (perfectly true) proposition that PA will be an instance of understatement, at fault in much the same way as a false statement such as 'Not PA' on the same subject,and equally misleading as well; for it will distort reality by having the force of an exclusion of the state of affairs which actually obtains. The situation requires a full statement of the fact that (OA . PA). It is sufficient simply to say that OA, since this entails the other conjunct; but the converse does not hold, so that the bare assertion that PA is faulty by the standard of correctness for the speech-act of stating the authority's ruling on A.

Consideration of the conditions under which the square's propositions are appropriately asserted in the speech-acts of actual deontic discourse thus makes it clear why permissions are, as was said on page 9, normally only mentioned when free of accompanying obligations. For our discussion has led to the conclusion that in normal communication contexts where an obligation is in force over A the assertion of a proposition of the form 'PA' is either pointless or strongly misleading, according as the truth of 'OA' is presupposed or not. The assertion may not, strictly speaking, distort reality as much as would the false statement that FA, but it does distort it nonetheless.

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[14] As in the example of contradicting an erroneous belief on page 18.

The incorrectness of such assertions is, of course, precisely what fits them for deliberate deception, for the committing of wrong acts by speaking. For just as lies proper are false statements masquerading as true ones, so speech-strategems which deceive without actually lying, like evading the issue or telling half-truths, depend on invoking all the same rules for the correct performance of speech-acts as would be invoked by the same choice of words for honest purposes. This is true even when the fault of understatement is an excusable or commendable thing to commit from other points of view; as a speech-act it fails to meet the standards it set up for itself, just as a 'white lie' can be an excusable or commendable act committed by a faulty speech-act. Even when they are virtuous, both understating and lying depend on the speaker's conforming to the standard conventions for asserting, so that the validity of the rule enjoining the attainment of truth is acknowledged even as it is abused. This is not to deny, of course, that the fact that understatement does, after all, attain a certain a certain level of truth may make a difference between understating and lying from a moral point of view. It seems that, although individual acts of lying can be morally right and proper, they tend to require an excuse for their deviation from the truthfulness rule, while understating in talking about one's own achievements (as in the virtue of modesty) and sufferings requires no such excuse. Conversely, the wrongfulness of morally wrong understatement seems not to be as serious as that of lying, probably because a lie's exclusion of the truth follows logically from its assertion of a false proposition, whereas deceptive understatement sins by omission rather than commission.

To resume: the conclusion reached in the foregoing discussion of the canons of appropriateness for pointful and truthful utterances concerning permissions, namely that reports of the form 'PA' are normally only to be made in obligation-free situations, leads immediately to the further conclusion that they are only to be made when the subject of the permission is also free to refrain from doing A if he chooses. For notice that any deontic situation of which the report 'PA' can truly be made will be covered by the formula 'Not OA → P Not-A'. In a deontic situation where, for example, a youngster is not required to leave the room when his parents are discussing their financial affairs, he is permitted not to leave it. In all cases where someone is permitted to do something without being required to do it, he is, necessarily, permitted both to do it and not to do it: (PA . Not OA) → (PA . P Not-A)[15]. The proper use of sentences to express propositions of the form 'PA' is thus restricted to situations where it is also the case that P Not-A. The proposition that PA does not entail that P Not-A, but the standards of correctness definitive of the act of reporting the deontic status of A require that both propositions be true if either is to be asserted for the purpose of such a report.

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[15] On the point of taking the entailment in this form, as holding between a pair of conjunctions, and hence the guarded introduction of the formula 'Not OA → P Not-A' at the beginning of the paragraph, see chap. 3, pp. 48-9.

In any communication context to which this truthfulness rule applies, the speaker is under obligation to tell the whole of the relevant truth in the matter he professes to be reporting, to give a fair picture of the situation. The same rule grants corresponding rights to the hearer, so that a speaker who reports that he has worked four hours, or that he is permitted to do a certain action, entitles his hearer to infer that he means that he has worked only four hours or that he is merely permitted, not also obliged. So even if the statement that PA does not entail that P Not-A, it does, in virtue of the effect on the force of the utterance of the entailment from '(PA . Not OA)' to 'P Not-A', give a hearer to understand that P Not-A, provided he is not given reason to suspect any abnormality in the context and circumstances of the speaker's statement.

When account is taken of these additional factors which come into play when the square's propositions occur in actual deontic discourse, the close connection between the idea of being permitted to do an action and that of being permitted to refrain if one chooses is seen not to conflict with the square's representation of 'PA' and 'P Not-A' as mere subcontraries. A man who has been truly informed that he is permitted to do A has the best possible entitlement short of logical compulsion to believe that he needn't if he doesn't want to. Indeed he would in his own way be violating the rule against misleading by exclusive understatement were he so anxious about conforming to the authority's will that he complained to his informant that he hadn't been told yet whether he was also permitted to do the negation-act. For just as the hearer is entitled to expect a fair picture of the deontic situation, the speaker is entitled to expect his statement to be received as such. Both are bound by the truthfulness rules which ensure the efficient working of language in assertions. If a schoolboy, on being told that he has permission to hand in his homework later than the appointed time, asks whether he may deliver it at the original time if it is finished by then, it is his contravention as hearer of the rule against misleading understatement that makes his informant reply impatiently 'Of course, that goes without saying'.

It does go without saying, since (to return to the smoking compartment we began with) ' Smoking permitted' and 'Not smoking permitted' must both be true if either is to serve for a correct report of the deontic status of smoking in the compartment. Because the square deals with propositions and not the speech-act of asserting propositions, it may be misleading if taken to represent the whole truth about the propositions 'PA' and 'P Not-A' and their role in reportive deontic discourse. But this is to put the square's claim into proper perspective, not to invalidate it: these two propositions remain, as far as concerns their logical connections, mere subcontraries which need not be true together. So they must each be true as separate and logically independent aspects of the deontic situation if passengers in a smoking compartment are to enjoy freedom of choice.

Chapter Two

Are There Two Senses of 'Permitted'?

The argument up to this point has developed and defended a contrast between (a) its being the situation that both OA and PA **or** that both PA and P Not-A, and (b) its being normally appropriate, when reporting on the deontic features of such a situation, to select for expressing only one of the pair of propositions the truth of which constitutes the situation: 'OA' by itself or 'PA' by itself respectively. With the help of this contrast it was possible to reconcile the *prima facie* natural assumption that to have a permission is to have a 'two-way' freedom of choice (i.e. that when one is permitted to do something one is also permitted not to do it) with the fact that (both in ordinary language and in the symbolism of deontic logic) *two* applications of 'is permitted' ('P-') are required to state a 'two-way' permission in full.[1] Two applications are needed because the act and its negation-act each require to be permitted in their own right; but in a normal communication context only one application of 'is permitted' will be made explicit (whichever is of interest to the hearer),because the assertion of one alone is sufficient to give the hearer to understand the other to be true or to be false according as his appreciation of the context leads him to suppose it to be true or to be false that OA.

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[1] Note that '(PA . PB)' does not entail 'P(A . B)', DL, p. 64; Lennart Aqvist, 'Interpretations of Deontic Logic', *Mind*, April 1964, p. 253. Furthermore, it would be clearly wrong to interpret the special case of a 'two-way' permission, where B is Not-A, as being or entailing a permission to do a logically impossible conjunctive act [P(A . Not-A)].

However, while in a philosophical discussion of deontic terms it is important to consider how they feature in assertions and other kinds of speech-act, it is also important to distinguish propositions from speech-acts, and not to ascribe to the logical content of the terms elements due to the particular kind of speech-act performed by their use. This mistake is made by Knut Erik Tranøy in an article which, in effect, challenges the accuracy of von Wright's formalization of the logic of the ordinary language term 'permitted', as follows:

> (1) An action which is obligatory is also a fortiori permitted, since if it were not, it would be forbidden.
>
> (2) Often when we say that an action is permitted, we mean to say that it is neither obligatory nor forbidden.[2]

Tranøy's thesis is that the formal expression 'PA . P Not-A', as used in deontic logic, defines a distinguishable sense [that formulated in (2)] of the ordinary language term 'is permitted'. (I italicize the word 'sense' because Tranøy does not simply mean that an action's being neither obligatory nor forbidden is something users of the term always or sometimes have in mind when they say, e.g. 'Smoking is permitted'.) Tranøy argues that (whatever may be true within a formal system of deontic logic) the sense in which an act is permitted when it is obligatory is quite different from the sense in which it is permitted when it is neither obligatory nor forbidden. If this is true, then, though the formal expression 'PA' is univocal, the ordinary language 'is permitted' is ambiguous - as Tranøy subsequently agreed was his view in reply to criticism of his essay[3]: the permission entailed by obligation is a different kind of permission from the 'free permission', as he calls it,[4] demarcated by (2).

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[2] 'An Important Aspect of Humanism', Theoria, 1957:1, pp. 39-40.

This thesis invites the question: which of these two kinds of permission is the kind negated by a prohibition? Thus Erik Ryding[5] objected to the postulation of two senses of 'permitted' that the negation of 'PA . P Not-A' is '[FA v OA v (FA . OA)]'[6], which would present travellers in a non-smoking compartment with an intolerable problem. To this Tranøy replied that his thesis did not commit him to the above disjunction as a formalization of a sign like 'Smoking not permitted', for his postulation of two senses of

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[3] Knut Erik Tranøy, 'Reply to Erik Ryding: A Note on E. Ryding's "The Sense of 'Smoking Permitted'"', Theoria 1958:3, p. 191.

[4] 'An Important Aspect of Humanism', loc. cit., p. 40.

[5] Erik Ryding, 'The Sense of "Smoking Permitted": A Note on Erik Tranøy's "An Important Aspect of Humanism"', Theoria 1958:3, pp. 188-190.

[6] This formulation of the negation assumes the validity of the square's relationships of contradiction, on which see Part II below.

'permitted' rested on the following 'factual hypothesis':

(a) When faced with the sign 'Smoking permitted', we actually tend to interpret the word 'permitted' after the fashion of the formal expression 'PA . P Not-A'; and

(b) When faced with the sign 'Smoking not permitted', we actually tend to interpret the word 'permitted' after the fashion of 'PA'.[7]

In other words, what is false of a forbidden action is the same as what is true of an obligatory one: 'permitted' in sense (1) and only in sense (1), to be symbolized by 'PA' simpliciter. This restriction of sense (2) to cases where 'is permitted' is explicitly affirmed of an action saves Tranøy's thesis from Ryding's objection, though it puts rather a peculiar construction on the action of an official who inserts the word 'not' in a notice saying 'Smoking permitted' - instead of describing him as simply negating what the notice previously announced we must now say he also changed the meaning of the word 'permitted' in the notice. But this saving restriction only invites a new objection based on the use of 'permitted' in questions. Suppose a foreigner enters a railway carriage and, not being certain what the absence of any notice about smoking signifies, asks the other passengers 'Is smoking permitted?'. If 'permitted' is truly ambiguous, the questioner may be enquiring as to the correctness of asserting 'permitted' of smoking either in sense (1) or in sense (2). But on Tranøy's thesis 'Smoking is not permitted' carries sense (1), while 'Smoking is permitted' carries sense (2) (unless, presumably, it is clear in the context that smoking is actually obligatory). Hence, if one passenger answers the foreigner's question in the negative and a second answers in the affirmative, the two passengers are not contradicting each other but are answering different questions; for when one passenger affirms and the other denies 'permitted' of smoking, they are using 'permitted' in different senses, and hence are not respectively affirming and denying the same proposition. This is a most implausible account of the situation.

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[7] 'Reply to Erik Ryding', loc. cit., pp. 190-1.

To measure its implausibility contrast the following two answers to the question 'Were the demonstrators permitted to make speeches?':

(i) 'Yes, the authorities gave their consent at the last moment.'

(ii) 'No, the hostile crowd shouted them down.'

These two replies are not in contradiction with each other (they could both be true) because they do answer different questions (assert/deny different propositions), either of which could be conveyed by the (in this respect genuinely ambiguous) interrogative sentence according as 'permitted' refers to the absence of normative obstacles or to the absence of obstacles physically preventing the action in question. There are good grounds for distinguishing these two senses of the verb 'permit' (the noun 'permission' has only the normative one). The difficulty of construing the situation in the railway carriage as analogous to the situation just sketched, in which the two replies clearly are at cross-purposes, is a measure of the implausibility of Tranøy's 'factual hypothesis' according to which 'permitted' carries two normative senses, as opposed to a (univocal) normative and a physical sense.

If the question 'Is smoking permitted?' could convey an inquiry of the form 'Is it the case that (PA . P Not-A)?', then one of the conditions for appropriately using such a sentence to make an inquiry of this form would be that the questioner was prepared to follow up a negative reply ('No, it is not the case that (PA . P Not-A)') by asking which of the disjuncts of the disjunctive negation of 'PA . P Not-A' was true ('Is smoking forbidden or obligatory (or both)?').[8] And indeed in the perhaps unlikely event of someone actually asking 'Is it both permitted to smoke and permitted not to smoke?' the questioner would, surely, be prepared to react as follows: if the answer is a bare 'Yes', he will be satisfied with the information that both smoking and not smoking are permitted; if it is presupposed in the context that the authority has issued a ruling of some sort on smoking but the answer to the question is 'No, they are not both permitted', he will pursue the inquiry further by asking, 'Well, which is the permitted activity - smoking or not smoking?'. For, if the 'inconsistent' disjunct 'FA . OA' is excluded, either A or Not-A must be permitted, according as it is 'OA' or 'FA' which is true.

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[8] The alternative 'Are any of them true?' is ruled out by the answer's implicit confirmation of the appropriateness of the original question's 'yes-or-no' form. To put the question 'Is smoking permitted?' in this form presupposes authority action as a condition for a straight 'yes-or-no' answer to be appropriate, and if this presupposition is not met the respondent should reject the question as not appropriately answerable in the form in which it was put, saying something like 'No ruling has been made onthe matter'. See further Part II.

The objection to Tranøy is not, primarily, that 'Is it the case that (PA . P Not-A)?' is an implausible analysis of 'Is smoking permitted?' (though it is implausible) but that it must be possible to answer a yes-or-no question by 'yes' or 'no', that is, by affirming or denying the proposition expressed by the use of the interrogative sentence. If a negative answer to 'Is smoking permitted?' would not normally elicit the further question mentioned above, the question must be of the form 'Is it the case that PA?' _simpliciter_; in which case the affirmative answer 'Yes, smoking is permitted' must be of the form 'Yes, it is the case that PA' _simpliciter_. But if 'Smoking is permitted', when used to answer the question 'Is smoking permitted?' affirms only that PA, then surely that is all it does in the ordinary course of a conversation when it is not called forth by a question but is used to inform someone about the deontic status of smoking; for example, if the foreigner goes out into the passage to smoke and one of the passengers says to him 'It is permitted to smoke in the compartment, you know'. In this example the passenger's utterance must be construed as an assertion of precisely the same proposition as would be asserted by an answer to an explicit question on the subject: a report on the deontic status of smoking, which does not _entail_ anything about the deontic status of not smoking. The intelligibility of the following dialogue depends on its being one and the same proposition which once formulated and affirmed in full, is then successively questioned, said to have been believed false, and reaffirmed:

> 'It is permitted to smoke in here, you know.'
> 'Is it? I thought it wasn't.'
> 'Oh, yes it is.'

That is, the conversational ellipses must be translatable into full sentences all using 'permitted' in the same sense asthe first sentence, or else the speakers are talking at cross-purposes. Since the cross-purposes account would clearly not normally be the correct interpretation of this and similar dialogues, Tranøy's 'factual hypothesis' is false.

It is true that if the answer to the question 'Is smoking permitted?' is affirmative, the questioner will 'interpret' the situation as being such that both PA and P Not-A. But this is not because he interprets the meaning of the term 'is permitted' as being such that to assert that smoking is permitted is to assert or to imply (logically) that not smoking also is permitted. The implication to 'P Not-A' is not logical but pragmatic;[9] it arises from the fact that the reply 'Yes, smoking is permitted' would have been (not false but) inappropriate and incorrect by the standards for truthful assertive utterances in the event of its being false that not smoking was permitted. And the questioner's 'interpretation' of the situation as being one where it is also true that not smoking is permitted rests, not on his understanding of the meaning of the word 'permitted' in the sentence 'Smoking is permitted', but on his understanding of the conditions the satisfaction of which is mandatory for any assertive use of this sentence which professes to give a faithful picture of the deontic case. Had the questioner been incorrect in concluding that not smoking, as well as smoking, was permitted, he would not have betrayed a deficiency in his knowledge of the semantics of the English language, any more than an employer who is told that his employee has worked four hours today and concludes (wrongly as it happens) that it is false that he has worked eight hours has displayed arithmetical incompetence. In both cases the mistaken inference is drawn on the basis of an assumption that the speech-act attained the standard of truthfulness at which it professed to aim.

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[9] So, too, though for different reasons (see last fn. and chap. 7 below), is the implication to 'Smoking is forbidden' which governs the interpretation of 'Smoking not permitted' notices - the second half of Tranøy's 'factual hypothesis' (pp. 28-30 above).

These two chapters have been concerned to provide and defend an answer to the question put at the beginning of Part I, 'In what way, if any, does permission to do an act, *A*, include permission not to do *A*?', in so far as that question concerns what one is told by the assertion that an action is permitted. In practical life, one might protest, permissions would not have the significance they do in fact have if they didn't include permission to refrain. But to say this is not to answer the philosophical question as to what 'include' means here. I have argued that the inclusion which does obtain is not an entailment of something which follows from the proposition asserted by the use of a sentence like '*A* is permitted', but is a pragmatic implication, which derives from the conditions which must be satisfied in normal communication contexts if the verb 'permit' and its synonyms are to be appropriately and truthfully used for reporting permissions. My argument has involved a defence against some actual and possible criticisms of the accuracy of von Wright's (1951) formalization of the logical interrelations of the deontic terms 'permitted', 'obligatory', and 'forbidden' - though I have also argued that in the context of actual discourse pragmatic considerations make for there being more to the 'use' of these terms than is reflected in the formalization of their 'logic'.

Chapter Three

Permission-Giving Utterances

The cases considered so far are ones where verbs such as 'permit' or synonymous and related expressions are used to report a permission which already exists. Expressions like 'You are permitted' are also used to give permission. This use stands in a rather different relation to the propositions whose logical relationships are set out in the deontic square of opposition: an authority who permits an action, A, does not aim at attaining truth with the proposition that PA; he makes it true. This use therefore requires separate treatment if a full answer is to be given to the question 'In what way, if any, does permission to do an act, A, include permission not to do A?'.

The use of deontic language for the speech-acts of enjoining, permitting, and forbidding will be called the 'performative' use, to distinguish it from the 'reportive' or assertive use discussed so far. The label is meant to differentiate this use of deontic language from the reportive use discussed hitherto[1] by signifying the distinguishing feature just noted: its function of making deontic propositions true. But to forestall any misleading associations that might be invoked by the term 'performative', a preliminary clarification will be in order.

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[1] By 'the reportive use' will be meant not only permission-reporting utterances proper, but also the use of deontic language in questions and other 'theoretical' speech-acts which, though not themselves truth-claiming, have no impact on the truth-value of deontic propositions.

First, the label 'performative' will not be restricted to what Austin calls 'explicit performative utterances' in the forms 'I permit' or 'You are hereby permitted'[2], nor to any particular one of the many grammatical forms in the indicative or the imperative mood which are available in the language for the speech-acts of permitting, enjoining, and forbidding. Second, it is not intended to give what would be otiose emphasis to the truism that such utterances are performances or actions with words; nor to imply that it is _because_ they are performances that they have the characteristic of not making truth-claims. The reportive use of deontic language, like any other truth-claiming use of language, involves doing something with words just as much as does the performative use. Even if permitting were a truth-claiming act, it would still, for the trivial enough reason that it is a _speech_-act, be performable by and only by the uttering of certain expressions (audibly or in writing or with actions to the same effect) in circumstances appropriate for the act to be what Austin terms a 'happy' one.[3] Its characteristic of not aiming at truth cannot stem from its being a performance, simpliciter, because that feature fails to differentiate the use of language to permit or to command from the reportive use of deontic language; rather this characteristic of it is part of what is involved in the fact that it belongs to what is commonly called practical discourse, to discourse which aims at making a difference through speech to what becomes the case, rather than at truths about what is or will be the case which are independent of the speech in which they are recorded.

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[2] J.L. Austin, 'Performative Utterances', _Philosophical Papers_ (Oxford: Clarendon Press 1961) pp. 230-1.

[3] J.L. Austin, '_How To Do Things With Words_', _op. cit._, p. 14 and _passim_.

The question of how performative discourse makes a difference to the human behaviour it rules upon, and hence to what becomes the case as a result of that behaviour, will be discussed in the next chapter. This chapter is concerned with the prior question of what is involved in the performative use itself. And now that it has been emphasized that the term 'performative' should not be taken to signify or to imply more than was initially specified, we can begin the discussion by asking what it means to say that the use of deontic language in the speech-acts of enjoining, permitting, and prohibiting is a performative use, a use which makes deontic propositions true.

The formulae 'FA', 'PA', etc. are modelled on ordinary language sentences in which the act-descriptions take the grammatical form of verbal nouns: 'Playing in the street is forbidden'.[4] But the superficial simplicity of this sentence hides a complicated logical structure which is due to the fact that forbidding is a speech-act performed by an authority ~~in a~~

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[4] Cf. e.g. DL p. 61: 'The proposition that the act named by "A" is permitted will be expressed in symbols by "PA".'

in a context of communication with one or more of his subjects.

To begin with, 'A' and 'Not-A', etc. are not expressions referring, in the manner of proper names and ordinary referring expressions, to any particular action that has been or will actually be done in the non-linguistic world; they stand for *types* of action, even if the descriptions they symbolize include specifications of a particular agent and/or a time and a place for his doing an action of the type mentioned. This is because enjoining and permitting are always concerned with types of action, not particular token-actions. Naming or referring to a particular instance of a type of action would presuppose the existence (i.e. the actual occurrence, past, present, or future) of that instance, by which time it would be too late to enjoin or to permit *it*.[5] *The* visit to the doctor that Randy made or is now making (or even will make tomorrow, if it is known he will make one) is not a possible object for a ruling - one can only tell him not to make *a* visit tomorrow, or to put off the visit he had *planned* to make. (This condition on the performance of ruling speech-acts should be distinguished from the merely pragmatic *pointlessness* of enjoining, forbidding, or permitting someone to perform *an* instance of a type of action he is already engaged in at the time referred to in the utterance - as opposed to continuing or not stopping it - or to do what he would be doing anyway at that time whatever the authority might say.[6])

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[5] For an elaboration of this point, cf. Bernard Mayo, 'Varieties of Imperative', *Arist. Soc. Supp. Vol.* XXXI, 1957, pp. 164-5.

The full logical structure of the deontic fact reported by a sentence like 'Playing in the street is forbidden' can be made clear by bringing in an explicit mention of the authority responsible for the act's having the deontic status of being forbidden. For any deontic situation reportable by such a sentence consists in full of the fact stated by a statement in which the speech-act verb 'forbid' is predicated of the relevant authority (or, in the passive, of the subjects concerned): 'Mother has forbidden (our) playing in the street' or 'We have been forbidden by Mother to play in the street'. And from a statement of this form it is always legitimate, albeit with an occasional stretching of ordinary language, to derive a synonymous formulation of the same deontic fact in which the act-expression occurs explicitly in subject-predicate form in a propositional that-clause where a type of action is predicated of the subject(s) covered by the ruling: 'Mother has forbidden that we play in the street'.[7]

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[6] This latter is the point made by D.R. Bell to the effect that an order is rendered 'nugatory...if what is ordered is already taking place', because 'one cannot initiate what is already started'. 'Imperatives and the Will', Arist. Soc. Proc. Vol. LXVI, 1965-6, p. 140, fn. 11.

[7] The legitimacy of this transformation is reflected in the common use of the propositional variables 'p', 'q', etc. in formulae of the form 'Op', 'Pp', etc. for systems of deontic logic, e.g. that set up by Lennart Aqvist, 'Interpretations of Deontic Logic', op. cit.; cf. D.R. Bell: 'An order contains a description of an act to be performed by the person to whom the order is addressed. One might put this by saying that an order predicates an act of a person.' 'Imperatives and the Will', loc. cit., p. 140.

The simple grammatical form we began with conceals the fact that a deontic proposition contains as a subsidiary part a further proposition, namely the proposition expressed in the authority's original ruling; the presence of this subsidiary proposition is revealed when the deontic fact is formulated by expressing the overtly compound proposition: that Mother has forbidden that we play in the street.

From these considerations it is evident that a report of the deontic situation is, in effect, an _oratio obliqua_ report of what the authority has said (including, of course, what he has said in written rulings). The report may be unspecific as to the identity of the authority and subject(s) concerned, but it must always be possible to ask for the full details left implicit in the context.

At the end of 'Deontic Logic' von Wright adds the following comment:

> In this paper deontic propositions have been treated as 'absolute'. They can, however, be made 'relative' in several ways...instead of simply considering whether an act is obligatory, permitted or forbidden, we may consider propositions of the following type: x is permitted to do A, or x permits y to do A.[8]

I am suggesting that, while it may be convenient and legitimate for formal purposes to treat deontic propositions as absolute, relativization of the sort described is always implicitly present in the background context.[9] The verbal noun form certainly has many conveniences for the purposes of ordinary conversation, but this should not blind us to the fact that the 'deontic characters' of being forbidden, etc. always derive from some source, which means, for present purposes, an authority and his rulings, and are always relative to that source.

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[8] DL p. 74.

[9] E.J. Lemmon agrees: 'Deontic Logic and the Logic of Imperatives', _op. cit._, p. 67.

For A to be *now* permitted, it is not enough that the authority *gave* permission for A to be done; the permission must still be, as we say, 'in force'. But this additional requirement seems to be analyzable in purely negative terms, as the authority's *not* having cancelled the permission in any way (compare 'The Minister's stated opinion on this subject *now is* that p'). So to say that A is permitted, or that a permission for the doing of A is in force, is to say (a) that a certain speech-act *has been* done (by the relevant authority), namely one with the illocutionary force of a permission and the subject's doing of A as its propositional content, and (b) that no speech-act has been done since to replace the previous ruling on A. In simpler terms, a person now has permission to do A if (a) he has been permitted to do A and (b) this permission has not been revoked. Thus to talk of 'the deontic situation' or 'the deontic status' of acts is just a convenient way of referring to what the authority has ruled concerning acts under his jurisdiction, that is, to the meaning and illocutionary force conveyed by his performative utterances to his subjects. The type of action ruled upon is determined by the proposition expressed in the speech-act, its deontic status by the illocutionary force which made the ruling an act of enjoining, permitting, or forbidding. A is obligatory (enjoined) if and only if a past performative utterance with the force of a command to do A has not in the meantime been cancelled, withdrawn, or otherwise ceased to apply (e.g. by the passing of a particular time specified for the doing of the obligatory act); for to say that A is obligatory is simply to say that it is covered in this way by an obligation-imposing pronouncement.[10]

The reason why deontic propositions are made true by the speech-acts which constitute an authority's rulings is now obvious. Successful performative use of 'I permit you to do A' in an act of permitting A makes it the case that A is permitted simply by making it the case that A has been permitted, which it does in the same truistic way as the doing of any action makes it true that an action of that type has been performed. Once A has been permitted in this way, it will continue to be permitted as long as the authority does not cancel or revoke his act of permitting it or until that act ceases to be of any relevance to the subject's behaviour for chronological or other reasons.

Indeed, a deontic status could only fail to be the result of an apparently performative use of deontic language if the authority's utterance failed to constitute a ruling, whether because the speech-act in question was of the wrong type (e.g. a sergeant's demonstration to officers under training of how to give commands on a parade-ground), or because it was an attempt at a ruling which was rendered unhappy by some infelicity such as not securing uptake with the subjects affected. For example, a secretary may fail to grasp that her employer's 'If you have a moment I'd be grateful if you would get me a cup of coffee' was meant as an order, not as a request which she could reasonably decline if very busy. This is an instance of an attempted order failing to come off through failure to communicate successfully the intended illocutionary force of the utterance.[11]

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[10] If the pronouncement is an undertaking, it results in the agent having undertaken to do A and not having been relieved of the obligation for any reason (cf. Introd., p. 5 and chap. 4, p. 95 fn. 17). Stanley Cavell, 'Must We Mean What We Say?', Ordinary Language, ed. V.C. Chappell (Englewood Cliffs, N.J.: Prentice Hall 1964), p. 99 fn. 25, recommends an interpretation even of the 'undertaking' involved in accepting a deposit of money as a complicated 'utterance', for 'you intend that what you do shall be understood'.

If, then, the speech-acts of enjoining, permitting and forbidding make deontic propositions true in this rather truistic way, and if the deontic situation for any given area of action, such as parking in London, simply _consists_ in the truth of certain deontic propositions to the effect that the authority has enjoined that such-and-such be done and has permitted that such-and-such else be left undone, the deontic situation at any given time is _completely_ determined as being what the authority's performative utterances have said it is to be. Consequently, it must be infected by any inconsistencies, vagueness or ambiguity of act-descriptions, or indeterminacy of application to be found in the rulings which comprise it.

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[11] For an account of such infelicities and of the many conditions which have to be satisfied if a speech-act like permitting is to count as having been successfully performed, see Austin, _How To Do Things With Words_, _op_. _cit_.. In a sufficiently formalized institutional setting, such as a military parade ground, procedural conventions can make the communication of illocutionary force entirely independent of a speaker's intentions, real or ostensible, so that the mere utterance of certain words may constitute a ruling to a certain effect irrespective of what sense the speaker meant his words to carry or what illocutionary force he intended them to have. Cf. P.F. Strawson's example of unintentionally redoubling at bridge, 'Intention and Convention in Speech Acts', _Phil_. _Rev_., Oct. 1964, p. 457.

An example of inconsistency between two rulings both in force at the same time was given in chapter 1's description of the plight of the South African woman in a legal limbo. An example of vagueness in act-descriptions would be, for instance, where a secretary is uncertain just how much license she is being granted when her new employer says, when first instructing her on her duties, 'I permit typeovers - provided there is not more than one to a page'. If she asks what he meant by 'one to a page', he may specify that he would not permit more than one word (as opposed to one letter in a word) to be typed over on any given page of typing . If that was what he did mean by the phrase, then his clarification could legitimately be held to be an explanation in more precise terms of an aspect of the deontic situation prevailing in the office, i.e. of what he meant by his original permission to the new secretary. For in order to know what he said, it is necessary to know what he meant by the words he used (given, as here, words that can mean this - otherwise he said something different from what he meant). But there are limits to what could count as a possible meaning for an ambiguous phrase as in 'You are to go to the bank on Monday' or for an imprecise expression like 'one to a page', and these limits restrict the extent to which a man who says that p (e.g. that he is giving permission for typeovers, provided there is not more than one to a page) can count as having thereby meant that q (e.g. that he was giving permission for typeovers, provided this didn't affect more than a single word on any given page).

Moreover, the employer might not have thought about conveying any more precise meaning at all, in which case his secretary's request for clarification shows him that he needs to issue a supplementary ruling laying down precisely how he likes his letters to look. He might even have to decide on a policy for the appearance of letters sent out from his office. This new ruling's more precise act-description would give it a more precise propositional content than the original permission, and this *ipso facto* means a change in the set of deontic propositions whose joint assertion gives a correct report of what the employer has enjoined or permitted his secretary to do. Reporting the deontic situation can be done more or less clearly, in greater or lesser detail, etc., but no report can state what an authority's subjects are or are not required by him to do in the area under his jurisdiction with greater precision than that attained in the actual speech-acts, the content of whose commands and permissions the report aims to convey. Previously, then, all that could be said was that the secretary was permitted by her employer to make typeovers, provided there were not more than one to a page. But now a report to this effect would give only an imprecise version of the deontic situation prevailing in the office. For that situation, consisting as it does simply of what the employer has ruled is to be or need not be done, is immediately changed by any new ruling.

This completeness of the correspondence between what an authority says is to be or need not be the case, and what is to be or need not be the case in the matter, contrasts with the way truth-claiming utterances, such as reports of the deontic situation, are always liable to give a version of what is the case which corresponds incompletely or inadequately in some respect with what is really the case in the matter. The performative use of deontic language does not aim at truths about states of affairs independent of itself, but at the creation or establishment of deontic states of affairs through the speech-acts of enjoining, permitting, and forbidding. And the price of this 'creative' role is that an authority dissatisfied with the prevailing deontic situation cannot set out to eliminate the elements he finds unsatisfactory in his previous rulings _without changing the deontic situation itself_. For that is no more and no less than he has said it was to be.[12]

Now the converse of this complete logical dependence of any deontic situation on the rulings which comprise it is that any performative utterance which is to constitute a ruling must determine, completely and authoritatively, a deontic status for the act in question. It has already been seen that although 'PA' entails nothing about the truth of 'OA' or of 'P Not-A', a man who reports that PA normally gives his hearer to understand that 'OA' is false and 'P Not-A' true. It should now be added that if he didn't give his hearer reason to conclude either that OA or that P Not-A, his report would be useless for practical purposes to an agent who wouldn't do A if it were left up to him, but wants to conform to the authority's will. For 'PA' does entail the disjunction 'OA v P Not-A', and it is obviously vital to such an agent to know which is the true disjunct; the entailment is indeed trivial, since the square represents the disjunction as an exhaustive one between a pair of contradictories one of which is necessarily true of any deontic situation. This means that if A has a deontic status at all, either 'OA' or 'P Not-A' is true; in particular, A cannot be permitted without Not-A being either forbidden or permitted.

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[12] This is, in effect, a variant of B.A.O. Williams' claim that a schema such as 'Do x or do y; do not do x; so do y' cannot be regarded as representing a form of inference with imperative sentences, since each limb of the putative inferential sequence 'can be construed only as the speaker _changing his mind_, or going back on what he first said'. 'Imperative Inference', _Analysis Supp_., Jan. 1963, p. 32. See further p. 64ff below.

Consequently, no performative use of deontic language could have sufficient force to establish a deontic status for A (which it must if it is to count as a ruling) unless it also had the force of a settlement in favour either of 'OA' or of 'P Not-A'. In particular, no ruling, however sparing in its choice of words for actual utterance - and of course in suitable circumstances the single word 'Yes' or a nod of the head will suffice - could confine itself to laying it down that PA simpliciter.

This important limitation depends on the fact that any deontic situation must realize the truth of one of the trio: (OA . PA) v (PA . P Not-A) v (P Not-A . FA). Now the square represents this disjunction as (i) exhaustive and (ii) exclusive for any act. (i) presupposes that there is a deontic situation involving A, i.e. that the authority has taken normative cognisance of A. This presupposition has so far been accepted (but only as a presupposition) throughout this study, e.g. the disjunction 'OA v P Not-A' has just been described as necessarily true *of any deontic situation*. The problem of authority non-action will be examined later in Part II. On the other hand, (ii) has been rejected from the beginning (cf. the South African story in chapter 1) in favour of the view that it is perfectly possible for inconsistent rulings to be made, even by a single authority, as a result of which an act has an 'incoherent' deontic status, e.g. that of being both obligatory and not obligatory. A brief digression will therefore be in order to make it clear that this possibility does not affect the use made in the present argument of the square's triple disjunction of conjunctions.

Given the analysis offered above of deontic propositions as *oratio obliqua* records of the meaning and illocutionary force of authority utterances bearing on the type of act in question, it is obvious that a description of an act as both obligatory and not obligatory is not *itself* inconsistent - it merely reports the inconsistencies of others. It would not indeed be possible to talk about an act being obligatory or permitted as such, in the abstract and without explicit reference to the authority or authorities concerned, unless it was normally the case that authorities avoid engendering logical conflicts with their own pre-existing rulings or with those of other authorities superordinate to or coordinate with them.[13]

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[13] Terms like 'conflict', 'inconsistency', etc. will always refer in this study to logical conflicts, unless the contrary is specified or clear in the context. Conflicts with an empirical rather than logical basis are rather more plentiful, and it would be asking too much for non-omniscient authorities to forestall them. See B.A.O. Williams, 'Consistency in Ethics', *Arist. Soc. Supp. Vol.* XXXIX, 1965 and 'Consistency and Realism', *Arist. Soc. Supp. Vol.* XL, 1966.

The initial intuitive acceptability of the logical relationships which the square claims to hold between the deontic propositions it formulates in (grammatically) subject-predicate terms is partly due to the obtaining of this general consistency in actual life. However, all that the present argument requires is that the square should give a valid account of the logical implications of any given ruling utterance made at a particular time by a particular authority: his ruling must bring about the truth of one or other of the trio set out at the beginning of the previous paragraph.

At least that much, then, must be realized by any deontic situation. The qualification to be added here is that a deontic situation may realize more than one of the disjuncts; but when the full logical structure of the propositions involved is laid bare in the manner illustrated on pages 40-42 above, it will be clear that this qualification, while it involves the admission that there may be a deontic situation which is incoherent in the sense that the subjects cannot avoid acting contrary to or failing to fulfil[14] at least one ruling, ~~it~~ involves no

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[14] 'Fulfilment' is to be preferred to 'obedience', inter alia in order to take account of permissions: a prohibition against and a permission for one and the same act are inconsistent with one another, although one cannot obey a permission. What one does in taking advantage of it is to exemplify the propositional content of both the permission and the prohibition by performing a token-act of the type permitted by the one and forbidden by the other. The inconsistency cannot be established from consideration simply of the propositions involved, which are the same in both cases, but requires reference to the opposed illocutionary forces of the two rulings.

In this study 'fulfil' is to be understood in such a way that an agent can fulfil the requirements of an order without his behaviour being governed by inconsistency *between the deontic propositions* whose joint truth constitutes the situation - the inconsistency is confined to the rulings reported by the assertion of those propositions.

Given the compound, *oratio obliqua* nature of deontic propositions, the logical relationships set out in the square are safe from invalidation by the possibility of inconsistency. At least where *different* rulings are involved, relativization will simply make plain the nature and source of the incoherence in the deontic situation. If necessary, this relativization can provide a specification of each of the mutually inconsistent rulings of *one and the same* authority. There is no *a priori* reason why such inconsistency, by a single authority at different times, should necessarily involve the cancellation of one of the rulings; of course, higher-order procedural rules may in some contexts take care of the problems posed for the subjects who fall victim to such authority-waywardness: *lex non cogat ad impossibilia* - at least not in just societies.

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an intention of doing so, and even without his knowing that an order to that effect has been given. A person fulfils a command in this sense if and only if he makes true the proposition expressed in the command. The *reason* why he does so is irrelevant, so that fulfilment is not a sufficient condition for obedience in its ordinary sense (for a discussion of some relevant differences, see Nicholas Rescher, *The Logic of Commands*, *op. cit*, pp. 52-6), though philosophers sometimes use it in the 'conforming action' sense I have given my term 'fulfilment' (see B.A.O. Williams, 'Consistency and Realism, *op. cit.*, pp. 2-5). Fulfilment is not even a necessary condition for obedience if Miss Anscombe is right in maintaining the possibility of 'obeying an order wrong' (G.E.M. Anscombe, *Intention* (Oxford: Basil Blackwell 1957) §32).

I italicize 'different rulings' in the foregoing paragraph because I have claimed that where a certain type of inconsistency vitiates a single utterance, the speech-act stultifies its own aim and fails to establish a deontic status for the act in question.[15] In the light of the present discussion, it will be clear that this means it does not constitute a ruling on the act at all. Hence the square does not come into play unless a coherent ruling has taken place, with the minimal consistency which that involves, as determined by the canons formulated in the square. An authority must heed these canons if his utterance is to have any upshot to be recorded in one or other of the trio of conjunctions: (OA . PA) v (PA . P Not-A) v (P Not-A . FA). For a given ruling, this disjunction must be accepted as exclusive. We may therefore legitimately return to the significance of limitation imposed by this trio, namely that no ruling can bring it about that 'PA' is true by itself.

No authority deliberating on what sort of deontic situation to establish in the area of his jurisdiction can evade the logical implications of the powers conferred on his speech-acts by his position as an authority. These powers are, as the square shows, such that giving a man permission to do an action without at the same time enjoining him to do it necessarily involves also permitting him to refrain. For the only thing that counts in determining the deontic situation is what the authority has said, together also with what he has not said, and even if the only thing the authority has said since he assumed jurisdiction is that he gives his permission for A, the fact of his having said this and not withdrawn it, together with the fact that he has *not* enjoined A, is sufficient to entail that Not-A is permitted $[(PA . \text{ Not } OA) \rightarrow (PA . P \text{ Not-}A)]$.[16] The authority is constrained by the logic of his situation to endow any permitting act which is not at the same time part of an act of enjoining with a 'two-way' permissive import for both the act and its negation. His deliberation about how to act must be governed by the fact that he can either enjoin A or permit Not-A and that any permitting act on his part must involve doing one or other of these two things, so that he must reach a *decision* which includes one or other alternative. However he decides in the end, his actual speech-act must be internally free of any disjunctive element: the resolution of a choice between doing x or doing y must be describable as 'doing x' or as 'doing y' *simpliciter*. Any ruling must establish the whole of one of the trio of conjunctions: $(OA . PA) \vee (PA . P \text{ Not-}A) \vee (P \text{ Not-}A . FA)$.

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[15] Cf. chap. 1, pp. 10-11.

A report of the deontic case can always confine itself to the assertion of just one conjunct in the relevant member of this trio, though if it does it implies more than it explicitly states. But the actual laying down of what is to be the deontic case cannot have an incompleteness analogous to that which may fault any utterance aiming to give a correct version of what is the case. Nor can it be done in two stages, as it were, by conveying each ingredient of the ruling separately, in the way a speaker describing the deontic situation could go on to assert that OA in order to compensate for the misleadingness of his original statement that PA. If the job of making a ruling is done at all, it is done completely. An authority is being illogical if, when he has said 'I permit you to do A' and is asked whether he means his utterance to be taken as having the force of an order to do A, or as comprising a permission to refrain from A as well as to do A, he replies, 'I haven't decided yet; I'll let you know in a moment'. If he really does mean to permit A and at the same time to refrain (at least for the moment) from enjoining A, that is sufficient for his ruling to include a permission not to do A; given that he decides not to enjoin A, it is no longer up to him to decide whether or not he will also permit Not-A, since his deliberate withholding of an obligation is a way of permitting Not-A, just as deliberately withholding permission is a way of forbidding.[17]

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[16] It should be noted that this inference is safe from the paradox developed in Part II's discussion of authority non-action because *ex hypothesi* the act has been ruled upon, as the occurrence of the positive formula 'PA' in the justifying theorem shows. (Cp. chap. 1, p. 24, fn. 15.)

It might indeed happen that, for example, a mother intended to tell her teen-age son to get a job for the summer, but before she actually got round to it he asked her if he might get a job, to which she replied, with secret delight, simply 'Yes'. What he asked for and what he got was at least a permission to do A - but could that be all? Suppose he doesn't try to get a job after all - is it then open to his mother to reproach him for disobedience, saying 'When I permitted you to get a job I didn't mean you needn't, but that you had to, though I put it in the form of a permission, since that was what you asked for'?

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[17] Cf. chap. 1, pp. 8-10.

No it isn't, for by giving him permission and not mentioning any prohibition, she ipso facto is not prohibiting the negation-act in this ruling. What counts in determining the deontic situation is what she said and did not say in her ruling utterance, not what she had originally planned to say or what she wanted to be done but didn't think needed an explicit injunction. Her son cannot disobey an order he has not been given, so that his not doing the act for which he asked and received permission cannot contravene her ruling in any way. Of course, she might have reason to complain if he didn't do it, because asking for permission in many circumstances serves also to inform the authority of an intention to do the act if the desired permission is granted; but this is another matter - a matter of an entitlement, given by the declaration, implicit or explicit, of a certain intention, to form plans on the expectation that the intention will be carried out.

However, the following sort of case might seem to be a genuine counter-example to the thesis that any ruling must establish the whole of one of the trio of conjunctions: a soldier has orders to enter a restricted area for some task, but to do this he has first to request permission to enter the area. Here the sentry's utterance 'Permission to enter granted' may not seem to allow the soldier the option of entering or not as he chooses. It appears not to be in conflict with the preceding order but, rather, to complete it by providing an element without which the order is held in check and the soldier prohibited from carrying it out. That is, it would seem that the order at first lacked the necessary permissive ingredient (for doing the act - permission not to do it being ruled out by the obligation-imposing part of the order), and so was completed rather than replaced when the relevant permission was granted. This permitting utterance seems a counter-example to the thesis about what a performative permitting act entails because it seems merely to provide an ingredient hitherto lacked by the order - permission to carry it out - and hence, in turn, the fact that the order lacked its permissive ingredient seems a counter-example to the thesis that obligation entails permission.

The answer is that the permission given by the utterance "Permission to enter granted" is not the permissive ingredient needed by the order, nor is it in conflict with the order, since it does not concern the same act and does not stem from the same authority. An accurate and full report of the order would make it clear that obtaining the permission to enter belongs to the complex conditions of application attached to the order as part of its content: the order enjoins (and thereby permits) the soldier to request permission to enter the area and, provided it is granted, to take advantage of it by carrying out his appointed task. Further, as far as concerns the performative permitting act of the sentry at the gate of the restricted area, the soldier is permitted not to enter. If the soldier turned back after receiving his permission to enter, the sentry could grumble about the way his time had been wasted, but he would not be entitled to report it as a breach of military discipline. Nor does the soldier's having permission from the sentry not to enter release him from the order of his superior officer to carry out his task within the area.

Is it possible, however, to sharpen the force of this counter-example by changing the description of the case? There is no difficulty about the soldier's being permitted by one authority to refrain from an act which another authority has enjoined him to do; such cases are not even peculiar to settings such as military camps, which are structured by a well-defined hierarchy of authorities, but have their analogues in the familiar everyday experience of school-boy, citizen, parent, and employee. But suppose it is one and the same authority who is involved throughout (this will also take care of the possibility of regarding the sentry in the previous case as just another 'mouthpiece' of the same authority as the officer). The officer says to the soldier: 'Every day you are to carry out your task in the restricted area, but before you begin it you are to report to me first, on each occasion, for permission to enter the area'. What is the import of his daily utterance 'Permission to enter granted'? It can scarcely include permission not to enter, because it immediately makes operative the obligatoriness of the officer's standing orders to the soldier to enter the area and carry out his task. The officer is, in fact, using the language of permission to say, in effect: 'Go ahead and do what I told you to hold yourself ready to do'. It is not a permission he is giving at all, but an order.

It may be useful here to have a slightly different case for comparison. The regulations of the Royal Navy concerning shaving are to the following effect: a clean-shaven man must not stop shaving daily without permission from his divisional officer; if he makes a request to stop shaving,and it is granted, he thereafter is forbidden to shave - to start shaving again he must put in a request to be ranked, once more, among those who are obliged to keep themselves clean-shaven. In such circumstances, the officer's utterance 'Permission to cease shaving granted' doesn't leave the man free to shave if he chooses. For he is in fact ordering the man to stop shaving.

Now the argument of this chapter has at no point hinged on the actual choice of words for giving a permission or an injunction. Nor has anything been said which would make it impossible for a man, like the seaman of our example, to request to be ordered to do something. What this case shows is that features of the background context can endow the utterance of a form of words which is normally assigned by the rules which give it its meaning to use for permission-giving the force of an order (and hence also, of course, of a one-sided permission). In this example, what makes the use of permission language appropriate is, as will be clear from the discussion of chapter 4, that the action ordered is one the man wants, indeed has requested, to do; what makes it possible to give an order in such terms is the background knowledge of the Navy's shaving regulations. The difference between this and the case of the soldier with a task to perform in a restricted area is that the latter is under orders to request to be ordered to carry out that task. His standing orders impose on him the obligation of reporting daily to ask to be told to 'carry on as instructed'.

But there is more to it than this. What the soldier requests each day is, in effect, a confirmation (which could be withheld) that his standing orders are to be regarded as binding for the given day. This means that, strictly speaking, he cannot be regarded as already under orders that day to enter the area and carry out his task. We may describe him, loosely, as 'carrying on as instructed', but if he really had been so instructed to perform the task that day he wouldn't need to be told to 'carry on'. His instructions are, rather, to report in a state of readiness to carry out the task (he might, for instance, enjoy a certain latitude in choosing the time of day he does it) if the order to go ahead is given. That order functions as a sort of 'executive signal': it tells (and permits) the soldier to do something he had hitherto only been told (and permitted) to prepare to do.

Now this notion of an 'executive signal' has been interpreted by Basil Mitchell[18] as evidential support for R.M. Hare's well-known phrastic-neustic analysis of imperative sentences[19]. According to Mitchell's account of the flag-signalling which coordinates the manoeuvres of a number of ships, the Senior Officer first hoists a message (which is 'a rough working example of a phrastic') and only later, when the other ships have signalled 'message received and understood', does he give the executive signal, which 'is, in effect, the neustic'[20], by hauling down the flags. Even if it makes sense to speak of a message conveying just a phrastic and nothing more, Mitchell's interpretation requires that no one on the other ships could know how to take the message until its completion by a neustic signal made it clear whether it was an assertion or an order (or perhaps even a question[21]). Yet, according to Mitchell, naval signalling contains no convention for providing the indicative neustic. Clearly there must be some indication already present as part of the signal that when the flags are hauled down this will not just be because they have served their purpose, but will have the significance Mitchell interprets as the communication of the imperative neustic - wrongly, however, since no phrastic should require for its understanding the anticipation of what kind of neustic is to be attached to it by the message-sender. Presumably the code book translates the array of flags by an imperative, and it does seem more natural to regard the message as an order from the start, but with conditions of application attached: 'Turn to port when and only when the "executive" signal is given'.

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[18] Basil Mitchell, 'The Varieties of Imperative', Arist. Soc. Supp. Vol.XXXI, 1957.

[19] See R. M. Hare, 'Imperative Sentences', Mind, Vol. LVIII, Jan. 1949, pp. 27-30 and The Language of Morals (Oxford: Clarendon Press 1952) 1961 edition, pp. 17-8.

[20] Mitchell, loc. cit., p. 178.

This, however, is a condition of application of a rather special sort. By keeping its realization within the domain of his own future actions (though implicitly warning that it will be forthcoming), the authority endows his anticipated action of realizing the condition with meaning and force as a speech-act in its own right. (The code-book makes lowering the flags the conventional method of performing this speech-act, but an ad hoc designation of some action such as firing a gun would suffice.) As the act of realizing the order's condition of application, it is a way of making that order unconditional, i.e. of issuing a categorical order to turn to port (for it cannot literally reach back in time to remove the conditional element of the previous speech-act). So the executive signal must be interpreted in conformity with its name, as an order looking back to the other message: 'Carry out the action mentioned in the previous signal'.

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[21] If neustics other than 'Yes' or 'Please' are what Hare is allowing for by his use of the phrase 'or something else' in Language of Morals, loc. cit., p. 17.

Since, moreover, it is neither a duplication nor merely the replacement of a conditional order to turn to port by a categorical one, but presupposes reference to the earlier signal for an understanding of it as an order to turn to port, that first message must in turn be construed as anticipating the executive: 'Turn to port (not now but) when the order to do so is passed'.

In form, this is an order to turn to port next time turning to port is ordered. But when that time comes what Mitchell's captains will be obeying if they turn to port is the order given by the executive signal rather than the original message. If turning to port is not doing what the original message required of them, that couldn't have been an order to do so subject to a genuine condition. Either it was just a preparatory warning of an order to come or it used the form of a conditional command as a convenient way of telling its recipients to prepare to carry out a certain course of action when instructed.

The phenomenon of preparatory order anticipating an executive signal that looks back to it is quite general. Any authority utterance of the form 'Do A when I tell you to' exhibits the features found in Mitchell's signal and the officer's standing orders to the soldier. A related form of expression is 'Do A or B, whichever I tell you to do'. This formulates what has been called an 'alternative-indicating' command, a notion which was introduced by Nicholas Rescher and John Robison[22] as the notion of a disjunctive command which, instead of presenting the recipient with a choice between doing x and doing y, indicates that a selection out of certain alternatives is to be done, without authorizing the recipient to choose which. Rescher's most convincing example of such a command is a field unit's receiving as 'Order 32' the signal 'Set out for objective 365 at 8 a.m. tomorrow along either route (1) or route (2)!', which is resolved by headquarters on the morrow by 'Execute Order 32! Do not take route (1)!'[23]

The crucial point about the 'alternative-indicating' interpretation of the first signal is that so long as the authority retains the decision as to which alternative is to be done, there is nothing his subjects can do to obey his command or conform to his instructions but put themselves into a state of readiness for either alternative and wait until the order is passed which sends them into action. If the content of the command is to be determined in the usual way by what behaviour would count as being in compliance with or in breach of it, the original signal

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[22] 'Can One Infer Commands From Commands?', Analysis, April 1964, p. 179; more clearly defined in Rescher's Logic of Commands, op. cit., p. 113, which also has the more accurate terminology - 'alternative-indicating' in place of the earlier 'alternative-presenting'.

[23] Logic of Commands, loc. cit., p. 115.

(Order 32) must be analyzed as an order to prepare (rather than an order with a disjunctive content)[24], followed by an executive signal telling the unit which to take of the two routes they were required to be prepared for.

The only new feature to be found in this example is the fact that the executive signal tells the unit to take route (2) by saying 'Do not take route (1)!'. The point of putting Order 32 into disjunctive form was to postpone until later the authority's choice between the two routes; what makes the second message an executive signal is the fact that it is given the function of resolving a problem deliberately left outstanding - the executive presupposes the alternative-indicating command and acquires its meaning and force by being the further speech-act anticipated by it. If Order 32 takes the form 'Do A or B, whichever I tell you to do,' the other must be understood to tell the men which of the two routes mentioned they are not to take. This is a way of referring to route (2) and telling them to take it.

By contrast, an ordinary prohibition against taking route (1) which was not given this link with the earlier speech-act would just stand on its own as a new and further ruling for the men to take account of. Prior to receipt of the prohibition the men have not received an order to go by route (1) or an order to go by route (2); nor are they under marching orders which will become operative at 8 a.m.

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[24] Rescher admits that an alternative-indicating command is not complete as a command, but requires a supplement to rule out the alternatives the authority wishes to eliminate. This is, in effect, to admit that it anticipates rather than gives the order to proceed to the objective. Ibid, p. 117.

regardless of whether or not headquarters gets in touch with them in the meantime. So prior to receipt of the executive signal the deontic situation is still indeterminate as to what they are to do at 8 a.m. But unless the prohibition is given executive force, it merely adds that they are not to do something at 8 a.m. It does not instruct them to do anything in particular; still less does it make operative the alternative-indicating command. How could it, when it leaves the men still under obligation to stand ready to take either route, including the one forbidden by the prohibition?

Rescher and Robison originally introduced the notion of an alternative-indicating command to defend the idea of imperative inference against certain arguments advanced by B.A.O. Williams[25]. They claimed it yielded a valid interpretation of the schema 'Do x or do y; do not do x; so do y', because this way of commanding the disjunction x or y would not entail permitting that same disjunction, and so would not be inconsistent with the subsequent prohibition of x[26] - a point which was of importance to Williams' use in his reasoning of what he called the 'permissive presuppositions' of such a sequence of commands.[27] If the so-called alternative-indicating command is interpreted in the way suggested above, it poses no threat to the subalternation relation, for it permits the same preparatory action as it enjoins. This permission is not removed by nor in conflict with the use of 'Do not do x' as an executive signal informing the recipient which alternative he is to ignore now that he is under orders to 'carry on as instructed'. On the other hand, once this executive has been given there remains no clear point in the authority's going on to say 'So, do y' as well.

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[25] 'Imperative Inference', op. cit.

[26] 'Can One Infer Commands From Commands?' loc. cit., p. 179.

[27] His argument was that 'Do not do x' has the force of denying the permission to do x given by 'Do x or y' when used for the purpose of an ordinary disjunctive command. Strictly speaking, however, no such permission is given: the subject is permitted to omit one act only so long as he does the other [Imperative

In fact, the following dilemma may be constructed about the interpretation of the last limb of the schema, 'So, do y': either the authority is changing the deontic situation, in the sense that his utterance makes true a deontic proposition which wasn't true before, or he is not, but simply clarifying what it is already. Neither can be represented as his drawing the conclusion of an inference.

Inference', loc. cit., p. 31.]; doing the other, say x, is one way of obeying the order to choose between the two alternatives and as such is permitted - but only as such, not otherwise. The subject has to do x to make it unconditionally permitted, just as he has to do x to make the omission of y unconditionally permitted. Prior to action in compliance with the order, whatthe subject is permitted to do is the same as what he is ordered to do: x if he doesn't do y and y if he doesn't do x (and not otherwise, if the 'or' is exclusive). All that is given is the disjunctive permission 'P(A v B)' inseparable from a disjunctive command. This permission is equivalent to 'PA . PB' only when A and B cannot, for reasons of logic, both be performed - see below p. 69 and fn. 35.

If this is correct, it is not quite right to say that the prohibition 'Do not do x' denies a (one-way) permission implicitly given in the first utterance - rather, it enjoins the hearer to bring about something (his not doing x) which was earlier laid down as a condition whose fulfilment was to be sufficient to bring into categorical force the permission for y and its associated order. It thus conflicts with the choice offered earlier by telling the subject which

The clarifying need not be explaining what the authority meant by his actual words in the manner discussed earlier[28], for he could be drawing out or 'highlighting' (as a reminder, for emphasis, etc.) certain of their implications. For example, having told Tom to write to Jim every Wednesday in October, he may go on to say at some later time 'So, write to Jim on the first Wednesday in October'.[29] To have thus commanded such an action 'by implication' without ordering it 'in so many words'[30] is strictly analogous to having 'implicitly asserted' something[31]: a claim that one has done so can be justified (in part) by appealing to the fact that the proposition that Tom writes on thefirst Wednesday in October is entailed by the proposition which formed the content of an earlier command (or assertion); but to make such a

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way to make it. The subalternation relation is all that is needed for this result and is all that is implied by the self-defeatingness of 'Do x, but I do not permit you to do x' which Williams uses for his argument [ibid, p. 31]. Otherwise his stronger conclusion that x as such must be permitted by 'Do x or y' depends on the claim [also p. 31] that 'I permit you to do x if you do y, but I do not permit you to do y' does not confer or admit any permission at all. But this claim is doubtful, since there is surely nothing even pragmatically odd about an authority issuing one or more 'reserve' rulings to deal with situations caused by breach of a 'first-line' one. Cp. Rescher, The Logic of Commands, op. cit., pp. 60-1 on the 'complete logical propriety' of the command 'Do not do A, but if you should persist in doing it despite this order of mine, then be sure to do B!'; a permissive analogue, '...then you may as well do B', might be a gesture of despair, but that is not the same as abdication (on which see chap. 7 above).

[28] Pp. 45-6 above.

[29] The example is taken from Rescher, Logic of Commands, loc. cit., p. 84.

[30] Cf. P.T. Geach, 'Imperative Inference', Analysis Supp., Jan. 1963, p. 40.

[31] The parallelism is acknowledged by Rescher, The Logic of Commands, loc. cit., p. 77.

claim about what one implied with one's words is not to make an inference, imperative or assertoric, but a statement about a past speech-act. Hence if the connective 'so' introduces a proposition as something implied by the speaker on another occasion, the authority is explaining 'What I mean(t) is, you are to do y' - not ordering y to be done.

Suppose, then, that the speaker actually commands Tom to write on the first Wednesday, as the maker of the corresponding assertoric inference would assert that proposition as his conclusion.[32] This puts him on the other horn of the dilemma, for by commanding something he makes a deontic proposition true; he adds a new element to the deontic situation, even if (through forgetfulness, say) he has issued a verbally identical command five minutes before. Even if the new command is of something implied by the contents of one or more previous commands, this fact is not in itself a reason for commanding, as it is for asserting, the entailed proposition (it might even be a reason against, since the act in question has already been commanded 'by implication'.) The implication links the truth-values of the propositions and so cannot support a sequence of non-truth-claiming command utterances expressing them, or be referred to by the connective 'so' in justification of a performative 'So, I command you to write on the first Wednesday'.[33] Commanding an entailed proposition in this way will actually make the deontic situation itself more explicit or more concise, rather than giving a more explicit or more concise version of what has already been said is to be the case, and so it will tend to replace the earlier commands the speaker connects it with.

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[32] Cf. Williams, 'Imperative Inference', loc. cit., p. 31.

[33] Cf. Williams, 'Consistency and Realism', op. cit., p. 9. See also chap. 4, pp. 82-3 below.

But whatever be the point and purpose of any subsequent utterance of the form 'So, do y', an executive signal is a command in its own right, not a clarification of the ruling it refers back to.[34] The examples given of such anticipatory rulings are perfectly clear, both as to what behaviour they require and as to their aim of holding the recipient in readiness for a subsequent ruling; that is, in no sense do they imply the signal they enjoin preparation for, even if (as is often the case) the executive is given the verbal form of a permission.

These cases have been put forward as various illustrations of how it might seem to be possible for an authority to give a ruling which confined itself to laying down just one conjunct of the conjunctions 'OA . PA' or 'PA . P Not-A'. As counter-examples they fail, as I have tried to show. What they do make clear, however, is that the purely logical and rather formal thesis embodied in the square's relationship should not be confused with the complex interplay between orders and permissions which is characteristic of real life situations, such as the one imagined in the quotation at the head of my introduction, in which conditions of application and background context play an important part.

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[34] As claimed by Rescher and Robison, 'Can One Infer Commands From Commands', loc. cit., p. 179, fn. 1, although there they are commenting on a different - and unconvincing - example of their notion. [See Yehoshua Bar-Hillel, 'Imperative Inference,' Analysis, Jan. 1966, pp. 80-1.]

The thesis that has been defended may be summarized as follows: an authority cannot correctly be said to have permitted A (issued a ruling with permissive import for A) unless something morethan 'PA' is true as a result of his speech-act. So his permitting act must have been performed either as a (logically necessary but normally implicit) part of a command making it the case that OA and hence that PA or as part of a 'two-way' permitting act making it the case that PA but not also that OA, and hence that P Not-A as well as that PA.

There is, then, a kind of speech-act, characteristically but by no means necessarily performed by the performative use of the verb 'permit', in which the speaker rules that his subjects are to be free (are to have the privilege) to perform the act in question or not, as they choose. Such an act may be called a 'two-way' permission, a title which appropriately reflects its 'two-in-one' nature as a single unitary speech-act establishing the conjunction of the two deontic facts (PA . P Not-A) which, though logically independent of each other, together constitute freedom of choice over a given act.

This 'two-in-one' nature is neatly expressed in the following equivalence of deontic logic: P(A v Not-A) ≡ PA . P Not-A.[35] These two equivalent ways of stating the same deontic fact show that it can be regarded as having been created either by a single permitting with a disjunctive content or by a conjunction of permittings, each with its own content. The first way of regarding the act shows why it is proper to call it a ('two-way') permission; the second why, although speech-acts of this kind constitute a species of ruling, they do not form a species of permitting distinct from the kind of permitting done as a logically necessary part of enjoining, and hence why their powers are not at variance with the previous findings of this study concerning the square's relation of subcontrariety and the connection between permissions and freedom of choice.

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[35] Stated by von Wright informally in NA p. 161 (my italics): 'A permission to do [sc. at least] one of several things, no two of which can be done under the same conditions, is...equivalent to a set of permissions'.

A two-way permitting act, whatever words are used to perform it, is, then, one which excludes the act of imposing an obligation and represents a decision in favour of 'P Not-A' being true. This provides a satisfactory solution to the puzzle posed at the beginning of chapter 1 about the railway authorities seemingly having to issue two separate permissions, one for smoking and one for not smoking, in order to designate a compartment as a smoking compartment. The permissions required are, in a sense, separate - but not so separate as the square may make it appear; for they merge in a single permission with a disjunctive content offering a choice between smoking and not smoking. The railway authorities must, like any other speakers, make it clear to the passengers which of the three kinds of ruling they are intending to issue. But it is perfectly possible to do this by a 'two-in-one' act without elaborate verbiage. Unless they themselves take steps to prevent their words having their normal implications by introducing some abnormality in the setting, the simple posting of a 'Smoking permitted' notice will safely ensure this result.

Alternatively, and significantly, they could use the imperative sentence 'Smoke or don't smoke - as you please'. A disjunctive command where the disjuncts are contradictories, instead of being obligation-imposing, is indistinguishable from a permission with the same content. An obligation to do one of two acts, one but only one of which will necessarily be done, is no obligation, no restriction on choice at all. (Where A and B are not contradictories, an order to do A or B does restrict its recipient's choice, by forbidding him to take a course he might otherwise have opted for, namely one involving neither A nor B.) This limiting case of an obligation, which is indistinguishable from a permission precisely because it sets no restrictions on freedom of choice, highlights the close connection between permission-giving utterances and freedom of choice; the next chapter will explore the way in which commands and permissions impose and remove restrictions on subjects' freedom of choice.

Chapter Four

Reason-Giving and the Wants-Presuppositions of Permitting

The previous chapter dealt with the way in which the speech-acts of enjoining, permitting, and forbidding make deontic propositions true, leaving to this chapter the question of how doing this makes a difference to the human behaviour ruled upon in performative deontic discourse. A further outstanding problem is this: it was claimed above[1] that a permission-giver will perform a 'two-way' permitting act provided only he omits to make clear, as one of the intentions on the recognition of which the successful performance of his act depends, that he is forbidding abstention from the act he is permitting; but it remains to be explained why this extra factor can so often be left implicit as far as the actual words of the utterance are concerned; that is, why, in giving (as in reporting) permissions, it is usual to mention just the one act, not also its negation - in short, why an omission will suffice for the 'two-way' effect that the permission-giver, normally at least, intends to bring about. For instance, normally we say 'You are permitted to leave' or 'You are permitted not to leave' simpliciter, rather than 'You are permitted both to leave and not leave'. The explanation of this point will emerge from the present chapter's discussion of how performative deontic discourse makes a difference to human behaviour, so that this chapter will both continue and complete the argument of chapter 3.

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[1] Chap. 3, pp. 52-55.

We may begin with the type of ruling which makes true a proposition of the form 'OA'. The practical import of any such ruling may be described by saying that by imposing an obligation to do A it gives a reason for A to be done. One means by which speech-acts can make a difference to human behaviour is by giving reasons for acting in one way rather than another; so this description, by saying that enjoining exerts its practical influence by giving a reason for doing the act enjoined rather than by some other means, does go some way towards explaining how it makes a difference to human behaviour. But many speech-acts have a reason-giving function, so the explanation needs to be completed by an answer to the further question: what sort of reason is given for doing A by the act of enjoining A, or (the same question put in slightly different terms) how does the performance of an enjoining act give a reason for doing A?

This is where the description italicized above fails to be helpful, because the answer it suggests to this second question is: 'an obligation' or 'by imposing an obligation', according to which way the question is phrased. But this does not advance the discussion, as it may seem to do, for it has already been seen that to say that an authority-imposed obligation is in force over A is simply to say that the authority has enjoined A by an injunction which has not in the meantime been withdrawn or ceased to apply[2]. So the answer suggested by the description is logically equivalent to the reply, 'Enjoining gives a reason for doing the act enjoined by enjoining it', i.e. to no answer at all. The problem is thus not solved by invoking obligations as the reasons for acting given by the speech-act of enjoining, but is merely rephrased as the problem of how the existence of authority-originated obligations makes a difference to the behaviour of the persons bound by them, or what sort of reasons for action such obligations are.

Nevertheless, the very failure of this attempt to explain the reason-giving function of enjoining in terms of its making true a proposition of the form 'OA' points the way towards a solution. The fact that the connection between the performance of the speech-act and the obligation which is its 'result' is of this truistic nature has a consequence which is not so trivial: namely that whatever sort of reason for action an obligation is, nothing more is required for giving it than is required for the successful performance of the enjoining act itself. Uptake must, of course, be secured in some appropriate way with the subjects who are to be given reason to do the act in question, but given that the authority succeeds in enjoining, success in bringing an obligation into force follows as a trivial consequence without further ado. A correctly performed enjoinment does not have to satisfy any _further_ standards of correctness in order to fulfil its practical aim of giving a reason for action. It does not, for instance, have to be fair, obeyable in practice, or even consistent with other injunctions already in force. If I am ordered to swim across the river by my commanding officer, and I have never learned to swim, I cannot obey the order, but that I cannot does not, pace von Wright[3], entail that I was not, after all, really given an order to do so. If court-martialled, my defence would not be to the effect that an order was not given, and hence that I could not have been disobedient, but rather that such an order should not have been given, or that I was justified in (had sufficient reasons for) not attempting the ordered act. Even though I would almost certainly have drowned, I nevertheless had a reason for at least trying to swim the river, a reason derived not from fear of being court-martialled for disobedience, or recklessness, or patriotism - although these may have served me as additional reasons - but from the mere fact that I had been ordered to do it by my commanding officer, from the mere fact of his saying I was to do it.

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[2] Chap. 3, p. 40ff.

Enjoining is thus self-sufficient as regards its reason-giving function, in a sense that contrasts with the way success in the theoretical aim of the speech-act of assertion is not guaranteed merely by success in performing the speech-act but depends, in addition, on what states of affairs obtain in the world: an authority who enjoins A gives a reason for doing A simply by and in enjoining it. Accordingly, the answer to the question of what sort of a reason for acting an obligation is must lie in the nature of the speech-act itself, not in any connection between it and something else extrinsic to it.

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[3] NA p. 115 and p. 122.

This self-sufficiency is, it should be emphasized, a feature only of the way the speech-act of enjoining accomplishes its immediate practical aim of giving a reason for acting. That reason is successfully given provided the speech-act is itself a 'happy' act of enjoining and thereby succeeds in imposing the intended obligation. But whether or not the recipients of this reason act upon it is, of course, another matter. Imposing an obligation in this way is not automatically a sufficient means to an authority's further aim of getting his speech-act's propositional content exemplified in the behaviour of his subjects, nor is it necessarily expected or intended to be sufficient for this purpose by the speaker, who may well add threats of sanction for disobedience, promises of reward for obedience, or an explanation of why compliance with the order would be in the best interests of either or both parties concerned. And even then, however many and various the reasons given by the authority, his subjects may be unwilling to do the act enjoined. They may prefer to face a firing squad.

Conversely, however, if the further outcome of the speech-act is negative in the sense that the action made obligatory is not done, that does not represent a failure in the speech-act itself, which achieved satisfactorily its own immediate point and purpose of giving a particular sort of reason for doing the action, but rather a failure in the speaker's attempt to get the action done by means of this and any accompanying reason-giving or exhortatory speech-acts. The propositional content of an order is intended by the speaker to serve as a standard by which to assess the recipient's actions, not as a criterion of correctness to be applied to the order itself. So it is not a criticism of the order, as it is of an assertion, that the standard of correctness it set has not been met because its propositional content lacks adequate exemplification in the world.[4]

The self-sufficiency which characterizes orders as practical speech-acts aiming to give reasons for acting in one way rather than another is not to be explained, however, as this contrast with assertions might suggest, by the fact that orders are speech-acts with a practical rather than a theoretical aim. For orders contrast in this respect not only with assertions in general, but also with certain other kinds of speech-act which have, like orders, the practical aim of giving reasons for acting. The achievement of a practical aim as the immediate point and purpose of a speech-act can also depend on factors extrinsic to and independent of the speech-act itself. Illustrations of such dependence will, by the contrast they provide, help to clarify the nature and importance of the self-sufficiency of orders.

Consider first the speech-act of warning, the reason-giving function of which is standardly served by locutions of the form 'Look out! There's a bull behind you.' If a hearer responds to such an utterance by taking to his heels he may be said to have acted on the warning issued by the speaker. What does this warning consist in? We speak both of warning someone that p (that there is a bull behind him) and of warning him to do A (to look out or run), so it would be arbitrary to assign the illocutionary force of a warning here solely to the utterance of the imperative sentence or to that of the indicative. But neither would it be right to describe what the hearer acted upon as a 'conjunctive act' which the speaker performed by telling him to watch out and telling him that a bull was present - the specimen warning did not consist of two independent acts but of the unitary performance of telling the hearer to take precautions on the grounds that there was a bull behind him.

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[4] Cf. the well-known shopping-list example in G.E.M. Anscombe, Intention, op. cit., §32.

The propositional content of a warning like this is a double one. (a) It must, in the first place, indicate an appropriate response if it is to be a piece of practical discourse, even though the speaker may not actually intend this action to be the further outcome of his speech-act (he may well be satisfied merely with having warned his hearer)[5]. For warnings, the behaviour in question typically consists in some avoiding or precautionary action, even if it amounts to nothing more than putting oneself in a watchful or careful frame of mind ('Watch how you go!'). (b) Secondly, the speaker must justify the directly practical part of his utterance by citing, as a reason for the hearer to do what he is being warned to do, some hazard or 'risk of loss or harm'[6] which it is in his interests to take this precaution against.

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[5] Cp. p. 76 above.

Not all utterances ordinarily described as warnings satisfy conditions as strong as these. Overt formulation of one of the two elements, (a) or (b), may well be lacking, especially if it is obvious in the context or if the speaker is content to leave it rather vague and general. Thus, 'Look out!' could easily be omitted from the example taken above, while a warning to 'Drive carefully' may be given by a speaker who has no very definite road-hazards in view; again, the danger warned against by 'Mind the steps!' may be too obvious to need specifying, or be due simply to the possibility that the hearer will not notice them. Still, whether explicit or implicit, both elements must be present if the utterance is to give the sort of reason standard for warnings. By contrast, a policeman's 'warning' to an errant motorist to 'Drive more carefully in future' is likely to be as much a threat as a warning and is better described as 'telling the motorist to drive carefully - or else he'll be had up in court' than as 'telling him to drive carefully as a precaution against being prosecuted'. Correspondingly, warning someone that p without presenting this as a hazard to take care against ('I must warn you that I'll be away for three weeks') is virtually just to give a notification, to tell someone to do something about or to take note of a certain state of affairs. At the opposite limit, the reason-giving element is dropped and what is described as a warning becomes indistinguishable from a direct veto, as in a 'Keep off the grass' notice.[7]

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[6] O.E.D. s.v. 'hazard'.

The standard and central cases of the concept of warning are, however, those in which the issuer of the warning combines (a) and (b) to tell someone to do A in view of the hazard to his interests or projects constituted by the fact or possibility that p. By presenting A as something needed for avoiding or dealing with a hazard, he ensures that the response the hearer is called upon to make includes, if it is not exhausted by, the exercise of vigilance and care; any definite action the hearer is warned to do is implicitly specified as a way of taking care against a hazard and must be chosen as such if the warning is to be fulfilled; even the brief warning notice 'Danger!' requires for its fulfilment by conforming action that the agent be on his guard against the danger indicated by the siting of the notice.

This means that a warning utterance of the form 'Do A because p' successfully conveys a reason for doing A of the sort intended by the speaker only if (i) p is or may be true, (ii) its being so is relevant enough to the recipient's interests to constitute a hazard for him, and (iii) if A is a specific course of action, the hazard is such that A is a rational precaution against it (the rationality of care or precaution, as such, against a hazard follows from the concept of a hazard). The assertion of p and of its relevance to the hearer, i.e. of its being a reason for him to take care or to take some particular precaution, may be presupposed instead of being explicitly conjoined to the act of warning the hearer to do A, but only if all these conditions are met can the speaker be said to have justified that act of warning by citing a reason for the hearer to do A.

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[7] See O.E.D. svv. 'warn', 'warning' for a picture of the relation between the central and less central cases.

The speech-act of warning is thus criticisable in the dimensions of (possible) truth and relevance in a way that reflects on its success in achieving its immediate point and purpose of advancing the (possible) truth of p as a reason for action. No warning utterance can guarantee to accomplish its aim of citing a reason, for success in this matter is dependent on factors extrinsic to the speech-act itself. It does not follow that "'You can't warn someone of something that isn't going to happen' parallels 'You can't know what isn't true'," [8] nor that an utterance will not be a warning at all unless 'there is some reason for supposing the thing warned about might harm the person warned'. [9] For if the above account of the double structure of warnings is correct, failure to cite a reason should not prevent an utterance being (understood as) a warning or nullify its force, any more than doubt is cast on the status of an assertion of p on the grounds that q if it turns out that p is false or that q does not provide the sort of support for it required to justify the assertion.

The risk of failure in the dimension of relevance can be guarded against by putting the warning in the form 'Watch out for the concealed turning five miles up the road if you don't want to risk a nasty accident';

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[8] J.L. Austin, 'Other Minds', Philosophical Papers (Oxford: Clarendon Press 1961) p. 70, fn. 2; later, Austin preferred to call such a warning 'false or (better) mistaken' rather than not a warning (How To Do Things With Words , op. cit., p. 55.)

[9] John R. Searle, 'Assertions and Aberrations', op. cit., p. 53; cp. chap. 1, p. 11, fn. 6.

this construction allows for the possibility that the recipient enjoys dangerous driving, or only wants to reach a village two miles on, which would mean that the concealed turning was no hazard to his present concerns, and that no warning of its presence could succeed in citing a reason for taking precautions against an obstacle to the fulfilment of his current project. The risk of failure in the dimension of truth can only be guarded against by a wholly conditional warning, to take care and drive slowly if there is any danger of ice. But at this point warning loses its reason-giving function and is reduced to telling someone to take care. That is, it can only fulfil a reason-giving function if it contains an implicit or explicit assertoric component and thus is criticisable in the 'theoretical' dimensions of truth and relevance by standards which it is not in the speaker's power to do more than aim to come up to.

Two final points before trying to generalize to related speech-acts. First, a contrast with commands. Just as the grounds cited in justification of an assertion justify the assertion, if they do, because they constitute a reason for believing the conclusion which is asserted as a truth, so the grounds cited in justification of a warning justify it, if they do, because they constitute a reason for the recipient to take the precautions which the warning presents as advisable. But a command cannot be justified either by reference to reasons for the subject to fulfil it or by reference to reasons for thinking he will. An authority can explain why he is issuing a given command; but that is to justify his action as a means to his own further intentions (which may, of course, concern the welfare of the subject). This applies a fortiori to the special and controversial case of commanding that p on the grounds that p is entailed by propositions already dealt with in earlier commands: he needs then to show how his act is relevant to some further intention of his such as the maintenance of clarity and precision in his rulings. To do this cannot be to advance a reason for the subject's making p true; for the self-sufficiency of commands means that the reason a command gives its recipient is distinct from any reason the authority could advance as making it rational to fulfil it, and unassailable by criticism on grounds of truth and relevance.[10]

This leads on to the second point. A command makes no appeal to the rationality of doing what it enjoins, whereas what gives an utterance the force characteristic of warnings is its appeal, explicit or implicit, to the rationality of taking precautions against hazards; that is why the fulfilment of a warning presupposes that the action is done by the agent as a means to deal with a hazard.[11] Hence to obey or act on the reason given by a command (as opposed to merely fulfilling the command) is to act in response to the command itself, whereas the reason given by a warning is one that the speaker can act upon without heeding the warning it was advanced in justification of. Suppose, for instance, that Jones is warned by his supervisor to proof-read the final typescript of his thesis, lest it be marred by typing errors; if Jones is already mindful of the peril and resolved to do so, his subsequent careful checking will be done for the very reason advanced by his supervisor, but not in response to the warning. Conversely, action in response to a warning need not involve acting on a reason given by the warning (which may have failed in its reason-giving aim): 'giving a reason', in the sense that has been under discussion, is not to be identified with making it rational to perform a certain action.

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[10] Cf. chap. 3, p. 67f. and cp. Williams, 'Consistency and Realism', op. cit., pp. 8-9.

[11] Cf. p. 80 above.

For example, it is rational for airport officials to make a special non-routine search of an airplane after (but not before) receiving an anonymous warning that there is a bomb on board, even though long experience of hoaxes may make them extremely doubtful as to its reliability. Here, the fact that someone has said there is a bomb in the plane is evidence the officials lacked before for thinking there _may_ be one on board, even if hardly grounds for believing there actually is; and a hazard remains to the passengers' safety _so long as_ it is in this way an open possibility that a bomb is concealed in the plane. But if, after a thorough check, it is reasonably certain that no hazard remains, searching action loses the rationale provided by the anonymous warning; even if the warning is repeated again just as the officials complete their task, there is no longer any reason to believe that there may be a bomb aboard.

The main point to note from this example is that the rationality of the official's precautions depends on the reasonableness of their _belief_, and subsequent disbelief, in the existence of a hazard. It may be reasonable for a hearer to take certain hazard-indicating evidence he has been given as strong enough to make precautions rational, when in fact there is no real risk of loss or harm; equally, he may reasonably take an utterance, which is not meant as a warning at all (but e.g. to relate some interesting news about a bridge having collapsed) as a warning in the sense that he regards it as giving him evidence of a relevant hazard. But such assumptions, conclusions, and beliefs all concern the existence of real and objective hazards such as the issuer of a warning must aim to indicate if he is to achieve the immediate point and purpose of his utterance. So even if the speaker's further purpose is to give his hearer reason to believe in a hazard, the primary concern of both parties must be with the truth and relevance of the grounds on which the warning justifies its call for the taking of care.

This pattern of 'Do A because p' is repeated throughout a wide range of practical speech-acts with a reason-giving function; the different types within this range may be distinguished by the different criteria of relevance linking action to grounds and justifying a speaker in telling someone to perform it. Threats, for example, can be represented by locutions of the form 'Do A because, if you don't, I shall do B'. The criterion of relevance here is that the prospect of B should be a menace or deterrent constituting a reason for not failing to do A. A threat to discontinue his piano lessons if he doesn't practice more faithfully made to a child who wants nothing more than to have the lessons discontinued is criticizable for its lack of relevance, since the recipient is devoid of the attitude which is necessary if the threat is to succeed in its immediate practical aim. It is a threat, clearly enough, but it has failed in efficacy; it has failed in its aim of giving the child a reason for practising more diligently, which requires that he prefer not to give up his music lessons or have some other attitude making him antipathetic to the threatened action. A threat is thus analogous to a warning in that success in its immediate aim of giving a reason for acting is to be contrasted both with its succeeding as a threat, which depends solely on its securing uptake and being understood as meant to be a threat, and with its succeeding in its further aim of actually obtaining the desired behaviour.

The crucial difference between threats and warnings is to be found in the different relation in which the maker of a threat stands to the verification of the truth-claim involved in the assertoric component of his utterance. If the threat is not a 'wild' one, he will normally be in a position through his own power of action to ensure that in due course he does what he threatens to do. Normally, then, even though the deterrent is not the speaker's present intention as such, but the risk that he will carry it out, whether or not the hearer is threatened with a genuine menace will depend on the speaker's sincerity in declaring his intention of doing B unless the hearer does A. If he is not sincere, there will normally be little risk of his later deciding to carry out the threat, which is therefore an 'empty' one. Nevertheless, an empty threat is not quite the same as an insincere one: it is one devoid of any real menace (which is the 'substance' of a threat), the analogue of empty praise[12] or a baseless warning. A threat can thus be judged a failure as regards its reason-giving aim independently of the issue of its relevance to the recipient's attitudes.

With entreaties and requests the grounding of the relevance claim in matters of fact is even less obvious, but present nevertheless. Such speech-acts fail to provide a reason for acting unless the recipient already has a motive for doing the act on being asked by the speaker to do it, even if this consists of little more than a benevolent attitude toward people in general rather than something more specifically based on a particular relationship with the speaker. Moreover, if, feeling well-disposed towards someone, I do something because he has requested me to do it, it is on the basis of an assumption that he really does want it done, not simply because he has said or implied that this is the case, however plaintive his tone of voice; for if it turned out that he did not want it done (for instance, he was blackmailed into making the request), I should regard my action as having been done under a misapprehension as to the validity of the reasons which motivated it. Entreaties, too, should implicitly, if not explicitly, indicate a fact or possibility relevant to the recipient's generous nature, guilt feelings, moral conscience, etc. 'Alms!', cries the beggar, calling attention to his plight in the hope that his hearer will find the sight of his wretchedness a sufficient reason for dipping into his pocket. The beggar's entreaty purports to give his hearer a reason for parting with his money by pointing out a state of affairs as being a suitable stimulus for the activation of an inclination or disposition to generosity; the rationale behind the utterance and the type of response which is appropriate to it must break down if the destitution is spurious or the passer-by so devoid of compassion that he doesn't even find that the utterance calls for consideration, however brief, and a decision for or against.

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[12] Cf. O.E.D. s.v. 'empty' in its non-spatial senses.

Thus, warnings, threats, and entreaties are types of practical, reason-giving speech-act which depend for the achievement of the practical aim which is to be fulfilled in and by the speech-act itself, as opposed to its further outcome, on antecedently presupposed wants and motives in the recipient, and on the relevance to these of certain facts or possibilities indicated by the speaker. If these presuppositions are not met, the speech-act is open to criticism for failing to come up to a standard of correctness which it set up for its own assessment but could not (in most cases) guarantee to do more than aim at. If they are met, the speaker's saying what he says gives a reason for acting because in saying it he points beyond his present speech-act at motives and wants which already incline the recipient to action. The recipient may not act on the reason advanced for his consideration, any more than he need act on other reasons he may possess for adopting the course of action which the speaker urges him to take. But if it successfully adds to or reinforces the weight of reasons, a practical speech-act has done as much as words alone can do to make a difference by rational means to what becomes the case in the world through human behaviour.

These illustrations of types of speech-act which lack a self-sufficiency comparable to that of orders show that the explanation of how a given type of practical speech-act fulfills its reason-giving function, or of what sort of reason for action it gives, may lie in a connection between the speech-act itself and something else extrinsic to it: the speech-act links up with reasons already possessed by the hearer and exerts its practical influence through them. If the speaker cites a want of his own as a reason for the hearer doing the action on the basis of appeal to the hearer's good-will and his readiness to help another (or the speaker in particular) to satisfy his wants, he is requesting. If he cites certain of the hearer's wants or interests, he may be encouraging him to do it, or suggesting, or giving advice, depending on circumstances and context and the criteria by which these wants or interests are to be judged relevant as reasons for the action in question. What he is not doing, however, is simply and solely telling him to do it - telling for no particular reason, just telling. Telling the hearer to do an action may be part of what he is doing, but in none of the cases just listed is it the whole; just as telling someone that something is the case is seldom all that is involved in a case of assertion.

Consider now, by way of contrast, a speech-act in which the speaker does simply bid or tell someone to do a certain action, but let the case be one where he is not in a position, as an authority with jurisdiction over the act, to give his utterance the force of an order making conforming action obligatory. This is a type of speech-act which may be performed, like any other, for reasons, but it does not itself involve an implicit or explicit basis in reasons. Making a demand, for example, when not based as a claim on a right, is often little more than telling someone to do something you want done regardless of the relevance of this want to some motive of the hearer; a demanding child is one with a tendency to do this. The peremptoriness of many demands, like the presumptiousness of the gratuitous directions to do this or that which are the mark of the 'busybody', is partly due to the speech-act's disregard of criteria of relevance to the other person's interests or inclinations. But there need be nothing offensive in telling a friend to hurry up and get changed when an outing is planned, to make his own bed when he stays the night, or to pull himself together when he is letting his life-problems spoil his career. There may be reasons known to speaker or hearer for doing these actions, doubtless indeed there usually are, but they need not be appealed to in or presupposed by the speech-act itself; nor is it absolutely essential that they be present in the background context, since many advertisements, for example, tell people to buy Brand Such-and-Such without so much as a pretence of explaining what reasons there are for doing so.

Of course it is possible for the recipient to take the fact of having been told to do something as in itself a reason for doing it. It is sometimes said that some people react to 'institutional advertisements' as if the mere fact that the name of the product has been mentioned in public places is a reason for choosing it over other brands. Advertisers and others might claim that choosing on such a basis can be justified by reference to the chooser's confidence that the named product is likely to be a better risk than one he has never heard of. Certainly one does sometimes seem subject to a certain sheep-like tendency to do what one is told without thinking, and apparently for no good reason. But perhaps this latter description, 'for no good reason', is less insulting to the agent's standards of reasonableness than the purported justification in terms of the lesser risk, which has only to be put into the form of an inductively-based policy to be seen not to deserve the confidence of any experienced shopper. Better that the fact of having been told serve as an explanation of what triggered a piece of behaviour which was not motivated by any rational reason for doing the action concerned. Be that as it may, if there is a mode of human reaction accurately describable as 'taking the fact of merely having been told to do something as in itself a reason for doing it', it will be analogous to believing something merely on the grounds of having been told it: a form of extreme naiveté or excessive gullibility. For simply telling someone to do an action is not as such a reason-giving speech-act. So the speaker's saying what he does can add nothing to the weight of reasons unless the fact that the words came from his, rather than just anyone's, mouth makes a difference to the balance of reasons: in other words, unless the speaker enjoys, or is presumed to enjoy, some status or qualification which endows his utterance with a force it would not have had if it had been made by someone without this 'extra'.

To any of these 'Do A' simpliciter locutions made by a non-authority it can be sensible to reply 'Why should I, who are you to tell me to do it?'. But it is quite inappropriate to say this in response to a command, for the answer is 'Because you are subject to my authority in this respect, which is tantamount to 'Because I am in a position to tell you to do it'.

X's being in a position of authority with regard to Y is not something which can be relied upon to connect up with a favourable attitude on the part of Y so as to make him consider the fact that X has told him to do something grounds for doing it. Such attitudes do exist, and not only in the servile; a person may even be so thoroughly identified with the ends of the organization in which he holds a subordinate position that the organization's will, as expressed in the orders of his superiors, immediately becomes his will too. Even if the order conflicts with some private want or plan of his own, on reception of instructions he quite genuinely finds his own inclinations secondary in importance and in the feelings of urgency they generate in him. But we are not here concerned with the reasons people may have for banding together to form (or to join a previously existing) organization structured into a hierarchy of superordination, nor with the attitudes individual members of such an organization may have towards the action enjoined in a particular order from above. For these are contingent matters, and it is incompatible with the self-sufficiency of commands as reason-giving speech-acts that they should wait upon such contingencies for success in this, their immediate practical aim. The contrasts provided by types of reason-giving speech-act which lack a comparable self-sufficiency illustrate how this lack is due to these speech-acts' essential characteristic of making a relevance-claim, and how, also, the rationality of this relevance-claim is grounded upon a truth-claim which, however indirectly and implicitly it may enter into the communication context, purports to present to the hearer that to which his attention is called as being relevant to some attitude, want, or motive of his, that which is to form the rational basis for the activation of some inclination or disposition in him. The contrast may also be put from the point of view of the recipient responding to these different types of reason-giving utterances:

> The sense in which meeting a request differs from obeying an order is to be found in a respect in the case of request for the manifest desires or wants of the person issuing the request which is absent when ordering is considered. This is respect for the desires of another as his desires and not, say, because one believes that not satisfying them will result in some harm to oneself... Typically, one obeys another because one respects or accepts his authority and right to initiate action on one's own part and not because one respects his own desires as such.[13]

Orders make no relevance claims, just as they make no truth-claims. In this respect they are like plain demands or the bare act of telling someone to do something. Yet they are unlike these and like warnings, threats, etc. in that they do give reasons. Where they differ from the types of reason-giving speech-act considered is in the non-contingent basis of their fulfilment of this practical function. Orders do not need to rely upon the existence of particular kinds of attitudes in their recipients, for they make no appeal to such attitudes, and need no support from empirical facts of this sort to make obedience a rational and reasonable response in the following sense: that a man has been ordered to do something by an authority to whom he is subject in the relevant respect entails that he has been given reason to do it, since an order imposes an obligation and an obligation is a sort of reason for action. Yet all that has actually occurred, so far as the report 'he has been given an order' goes, is the utterance of certain words with a certain meaning. And only a convention could endow such an event, considered in and by itself, with the import it has in our lives; a speaker's saying something, as such, could count invariably as his giving of a reason only if it was held to do so.

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[13] D.R. Bell, 'Imperatives and the Will,' op. cit., p. 142.

What this means is explained by H.L.A. Hart in the following terms:

> If members of a group merely have a habit of obeying an individual, X, who threatens them and is able to harm them in the event of disobedience, this situation might be described by saying they are obliged or compelled to obey him or to do what he says, but not by saying that they have or recognize an obligation to do what X says. If we are to speak of their having or recognizing an obligation to do what X says, their attitude to X's words must be more than habitual obedience. The minimum required in addition to general obedience, if we are to speak of the group's recognizing or having a legal obligation to do something specified by X, is (1) that X's words should generally be accepted as constituting a standard of behavior so that deviations from it (unlike the mere failure to follow a mere habit current in the society, such as that of drinking tea or coffee) are treated as occasions for criticism of various sorts; (2) that references to X's words are generally made as reasons for doing or having done what X says, as supporting demands that others should do what he says, and as rendering at least permissible the application of coercive repressive measures to persons who

> deviate from the standard constituted by X's words.[14]

In situations less formally institutionalized than the law, the element of coercion is less prominent, if not altogether absent. So, independently of how far it is true that the concept of authority is to be understood as standing in essential _contrast_ to the exercise of force or to physical interference in general (in which case resort to coercion would represent a breakdown in the system[15] rather than just another facet of an indivisible whole), we must take as the crucial factor the notion of X's words constituting a standard for someone's behaviour. This will be a reason for that person to act in a certain way in the sense that if he does not, he will be held to have committed a fault or to have failed to meet a standard of correctness, which is equivalent to saying that there is a rule to the effect that X is to be obeyed.[16] Hence,

> If words are to be used to create legal obligations, rules of the system must exist providing that if they are used (by the appropriate persons in the appropriate circumstances) these persons designated by these words shall be legally bound or have a legal obligation to do or to abstain from certain actions.[17]

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[14] 'Legal and Moral Obligation', _Essays in Moral Philosophy_, ed. A.I. Melden (Seattle: Washington Univ. Press 1958), pp. 89-90; he is describing 'the simplest imaginable legal system where a monarch has unrestricted legislative authority to enact law imposing legal obligations by pronouncing or writing down what he requires to be done'(p. 88). Cp. also Bernard Mayo, _Ethics and the Moral Life_, _op. cit._, p. 146ff.

[15] As argued by R.S. Peters, 'Authority', _Arist. Soc. Supp. Vol._ 1958, pp. 219-20; Peter Winch, 'Authority', _loc. cit._, p. 231.

[16] H.L.A. Hart, 'Legal and Moral Obligation', _op. cit._, p. 91.

[17] _Ibid_, p. 87; repeated, nearly _verbatim_, H.L.A. Hart, _The Concept of Law_ (Oxford: Clarendon

To be an authority is to have the authority (or right) to determine standards of correct behaviour in this way; it is to be someone entitled, in virtue of the rules of an institution (however informal), to endow certain forms of words with the special force which we describe by saying it imposes an obligation. The only relevant and reliable difference between an obligation-imposing order and other ways of telling someone to do something is the status of the speaker as an authority in the above sense. The possession of some sort of ascendancy over others, based on striking characteristics or powers, will not suffice, as it can only support a claim that there is (contingently) reason to do what the person says, not a claim that his saying so, as such, has reason-giving force; even if the leader himself appealed to his superior powers, that would do no more than give his utterances the force of expert recommendations or authoritative verdicts. Only when he can disregard the need to justify his verdicts on a basis of contingent relevant reasons does his saying what is to be done bind, or make it obligatory for, others to conform to the standards of conduct he lays down. How he acquires this authoritative position is a contingent matter, but what is required is that it be accepted as a matter of convention or rule that his saying an act is to be done gives a reason for it to be done, simply because it is his saying so.[18]

Press 1961), p. 42, but in explanation of the binding force of promises.

[18] Austin Duncan-Jones, 'Authority', Arist. Soc. Supp. Vol. 1958, pp. 249-54 vs. R.S. Peters, loc. cit., pp. 208-18; and Austin Duncan-Jones, ibid, p. 246 vs. Peter Winch, loc. cit., p. 239.

Correspondingly, to be subject to some authority is to have a general duty to obey his rulings - a duty undertaken in consequence of entering the 'institution' or, in certain cases, a duty that is to all intents and purposes an unavoidable and inescapable fact of the social and family life into which one is born, since one is held to it without the question of any voluntary agreement or acceptance arising. Any obligation arising from this duty is a reason for action. Most humans, some of the time, find such obligations inadequate spurs to actual performance - hence the need, in practice, to provide for other motives by the threat of sanctions and/or the cultivation of a 'sense of duty'. Moreover, any action done because of its obligatoriness can usually (and should, in a sane society) be further justifiable in terms such as the value and utility of participating in the institution and evidence as to the general reasonableness of the orders given by one's superiors as measured by their conduciveness to the ends of the organization. But these are facets of the way in which the obligation-creating practices impinge upon the real-life activities they direct. Conventions are no more than conventions, a truism which explains both their frequent lack of efficacy and their need of further justification. I have not sought to advocate blind obedience, only to defend the conceptual thesis that obligations are conventional reasons for action.

I have examined the reason-giving function of obligation-imposing utterances at length because a proper 'placing' of the type of reason given by such utterances lends support to an important conclusion concerning the concept of permission, to the practical influence of which we may now proceed.

It has been claimed by Bernard Mayo that the concept of permission is not on the same footing as that of prescribing and forbidding. He argues for this by seeking to establish a rigorous 'contextual implication' in virtue of which a permission presupposes an antecedent prohibition which the act of permitting revokes, or at least - and here, not surprisingly, he finds it necessary to adjust the principle - what is presupposed and thereby revoked need not be a prohibition which has actually been promulgated, since all that is involved is that it might have been, that the authority granting permission claims to control this area of conduct.[19] With the requirement of a claim to jurisdiction we may agree. But how can an authority revoke a prohibition he has never issued? Revocation or cancellation does indeed presuppose an antecedent ruling as its object, but this is not due to the specific nature of the concept of permission but to the 'higher-order' character of the concept of cancellation: any cancellation, including the cancellation or revoking of a permission , requires an actual (not merely a possible) ruling for it to operate upon.

Mayo is right, I think, in his contention that there is a certain secondariness to the concept of permission (despite the square's subalternation entailment); but he goes wrong through trying to tie this feature down to each and every instance of the concept, as opposed to trying to locate an asymmetry affecting the concepts of obligatoriness and permittedness in a somewhat more general way. The conventionality of obligations as reasons is, I think, the source of an asymmetry such as Mayo was seeking. The conventionality of this type of reason is connected, as has been seen, with its externality: an obligation is self-sufficient as a reason without needing to find a point of application in the personality of the subject - it comes from outside and can remain outside, in that it need not operate as a spur to action by reinforcing any preexisting inclination or disposition. These remarks are regrettably rather metaphorical, but it is useful, I think, to regard orders, to a certain extent at least, as civilized substitutes for physical pressure[20]- no literal theory about man's prehistory is needed, just a recognition that the dual application, to both physical and normative influences, of a wide range of terms such as 'allow', 'let', 'prevent', 'oblige', 'can', 'make do', and many others, is not without a certain appropriateness. And acting under physical pressure is the paradigm case of bowing to external factors, of acting for reasons which are not of one's own choosing.

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[19] 'Varieties of Imperative', op. cit., p. 170.

Now the notion of (physically) letting someone do something is an essentially negative one: it is a matter of (deliberately) not interfering, of leaving the other person to act under his own steam, rather than of doing anything of a positive, overt sort. What is difficult is to express this difference in any very precise way. That there is something to the idea of negativeness in this connection can be seen from the fact that anyone who can truly be described at a certain time as letting someone do something could also (indeed must also) be truly said to be doing some other action out of an indefinitely vast range of alternatives; whereas the actions of one who is interfering with someone else and forcing him to do or preventing him from doing something may well not be the subject of any further descriptions beyond those which give the details of how he is interfering. By contrast, a description of what a man is doing when he is letting another be is precisely not a description of how he is doing the latter.

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[20] Max Black makes this comparison too: 'Notes on the Meaning of "Rule" Pt. II', Theoria, 1958:3, p. 145.

Analogously, it may be said that (normative) permission presupposes prohibition in that it grants or maintains a freedom - not the pristine freedom which is characterized by the absence of authority, but freedom from prohibition under authority, a freedom which can be cancelled at any time by the authority's using certain words. Where an act of permitting is not a cancellation and has no reference to any past ruling, its import is to make clear that no prohibition is being put into force, that the authority is refraining from forbidding. The subject has permission by virtue of the authority's not having exercised his option to forbid (or having exercised it, by virtue of his exercising his option to cancel his prohibition). This is a negative notion in that it essentially involves the idea of refraining - refraining from imposing normative obstacles such as can be imposed by commands and prohibitions. It is not required that any particular permitting act actually free the recipient from the obstruction of such an obstacle - and one couldn't, strictly speaking, be freed from a merely possible one; only that the granting of permissions be understood in general as the establishment of freedom from prohibition. This is its point and its raison d'être, especially when it is two-way permitting.

Freedom of this sort presupposes the idea of interference, just as the concept of abstention or refraining presupposes that of acting, the general category comprising all those things which one can be said to refrain from. A conceptual or identificational dependence of this sort need not involve the possibility of the one concept being exercised or instantiated without the other ever coming into play. There could be no commanding without permitting (for one thing, commanding entails permitting), but still, commanding has a certain logical priority, in the following sense: commanding is giving someone an external reason for acting in a certain way, imposing upon him and interfering with his freedom of choice, while permitting is freeing him from or refraining from external interference of this sort and leaving him free to act in whatever way such reasons for acting as he already possesses may incline him. In an area over which no authority has jurisdiction a man possesses an independent freedom to act according to his own inclinations that no words could possibly increase. Words can only grant and maintain freedoms that words can take away.

The kinship between permitting and deliberately allowing (physically) can be further brought out with some examples. Suppose that a parent's attention is called by one of his children to the fact that his other children are lighting firecrackers, and he says to this child, 'Never mind, they'll be all right; I'll keep my eye on them,' and the children see that he comes out periodically to check up on their safety. His utterance, together with his subsequent actions, has the force of a permission, despite the absence of deontic language. Now suppose instead he said nothing at all, but simply sat, where the children could see him watching their activities, without giving any sign of displeasure. (Compare the case of a schoolteacher sitting calmly and non-disapprovingly at his desk while his class runs amok.) Evidently this behaviour, though itself non-linguistic, can (given a background context of the appropriate linguistic practices) be described as having the force of a permission. At least the children would think it highly unjust if they were later reprimanded or punished by him for playing with firecrackers, since they are entitled to claim that he, by behaving as he did, gave every indication that his intention with regard to what they were doing was just the intention which would be communicated in an explicit permitting utterance, namely that they should be free to make up their own minds. For what he did was to refrain from prohibiting their games.

At the same time, these examples illustrate how the two-way nature of physical letting comes over into its normative analogue. To refrain overtly from exercising one's prerogative of prohibiting either the act or its negation is to permit both. The parent, by sitting by or making a reassuring remark to one of the children, has also given the children permission to stop lighting the firecrackers when they get tired of it; nothing has been said about the act of not lighting firecrackers, but nothing need be said, because it is the activity of lighting them in which the children are engaged and which is their desire. The presuppositions of giving, as of asking for, permission are such that normally only one side of the act is mentioned or otherwise attended to: either the doing or the not doing, according to which is wanted, or supposed wanted. It is the wants of the recipient that determines which side of the act receives explicit mention in a two-way permitting act.

For example, when Mother gives Robbie permission to watch a favourite television programme by saying 'You may watch your programme tonight', the point of her speech-act is to remove a normative obstacle to a wanted activity, or to make clear that no such obstacle stands in the way; since viewing the programme is a desired privilege, it would be irrelevant to mention (what is true) that he is being given permission not to watch it. On the other hand, if she ordinarily required him to watch the television programme, and he didn't want to watch it on a particular occasion, she might well give him permission not to watch television, and this permission would have point since she would be removing the barrier imposed by the obligation to watch it. It is because of the normal wants and normative obstacles associated with party-going and chapel-attending that such a hypothetical regulation as 'Undergraduates are permitted not to attend parties on week-days' sounds peculiar, while 'Undergraduates are permitted not to attend chapel at Evensong' does not.

Sometimes mothers add 'if you want to' to their permission-giving expressions. They do this when they aren't sure that their youngsters want to do the act in question. When an employer gives an employee the afternoon off he often puts the gift in the form of a permission, e.g. 'You may take the afternoon off'. He expects that the employee will be delighted, so he doesn't add 'if you want to'. But he could, and when he does there is an explicit indication that he is not sure that this is what the employee wants to do after all; his permission is deliberately made two-way: 'You may take the afternoon off or not, as you wish'.

The if of the 'if you want to' is like the if illustrated in Austin's biscuit example in his essay, 'Ifs and Cans'.[21] Just as I can infer from 'There are biscuits on the sideboard if you want them' that biscuits are on the sideboard (whether I want them or not), so the employee can infer from the fact that he has been given permission to take the afternoon off if he wants to that he is permitted to take the afternoon off (whether he wants to or not). Although the permitting utterance makes reference to his wants, the existence of the permission it gives is not conditional on them; only its having point. Just as I won't take a biscuit if I don't want any, so I'm not likely to take advantage of a permission to do something that I don't want to do, and it would be as pointless to give it to me as it would be to hand round biscuits after dessert at the end of a large meal. (An exception is when what the recipient wants is to receive the permission as such rather than to do the act - parents often want permission (the option, right, or privilege) to come into the rooms where their teenage offspring are giving a party, even though they don't actually want to put in an appearance at all and are not likely to take advantage of the permission; they just don't like being excluded.) Hence when the speaker is not sure that his gift will be welcome, he adds 'if you want' in order to give his utterance the force of an offer (of biscuits/an afternoon off work): he calls his hearer's attention to the presence of biscuits on the sideboard or releases him from his normal duties for the rest of the day and then relieves himself of the responsibility of meeting the conditions of pointfulness for such actions by adding what amounts to 'So it's yours for the choosing, you have only to choose'.[22] As far as the speaker is concerned he has played his part, and it is now up to the hearer to decide what to do about it.

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[21] J.L. Austin, Philosophical Papers, op. cit., p. 158.

Contrast now the 'if' in 'Do A if you want'. Here the recipient is not ordered to do A whether or not he wants to.(This is why "the traffic light 'Cross now', addressed to pedestrians, is short for 'Cross now, if you wish'".[23]) At the same time, to make the obligatoriness of doing A conditional on the recipient's wanting to do A is to deprive the 'reason' given by the 'command' of all its externality, leaving the recipient free to act according to his own inclinations. Yet the utterance is not senseless just because (unlike 'Do A if you want to do B') it imposes no effective obligation, no restriction on choice at all: it gives a permission to do A because the speaker in imposing this 'empty' obligation gives an explicit indication that he is refraining from external interference with the recipient's own inclinations over doing A.[24]

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[22] Cf. Austin, 'Ifs and Cans', ibid, p. 160.

[23] NA p. 98.

An authority who grants a permission does not give up his jurisdiction over the act; he retains his normative control while refraining, for the duration of the permission, from exercising his right to make the permitted act obligatory. He does this when he gives an order too: having the right to make either A or Not-A obligatory, he opts for A and refrains from external interference with any inclination on the part of the recipient to do A rather than Not-A. The imposing of normative obstacles, the use of 'symbolic incentives to action'[25], would be pointless unless such external spurs were needed (in general - not, of course, in every particular case) to make a difference to human behaviour which could not otherwise be obtained, at least not so smoothly. But it is misleading to say

> The logic of obligation requires a conflict between the obligation to do something and the inclination not to do it. But it is important to notice that this conflict is part of the general background of the concept of obligation and need not occur in every case.[26]

Even in its qualified form this thesis implies that what creates a need for external spurs to action is typically a positive disinclination to do the act. But what matters is the fact, as such, that the act may not be done if it is not made obligatory, not the reason why.

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[24] Compare the analogous case of 'Do A or don't do A', pp. 70-1 above.

[25] Black's phrase, 'Meaning of "Rule", II', op. cit., p. 145.

[26] P.H. Nowell-Smith, Ethics, Penguin ed. 1954, pp. 210-1. Cf. also Mayo, 'Varieties of Imperative', op. cit., pp. 169-70, and (closer to the present discussion) Ethics and the Moral Life, op. cit., p. 154 and p. 254.

In the first place, the subject may have a general inclination to obey the law, or to carry out the duties prescribed for his job in an organization, etc.,and so regard particular injunctions as specifications of what is required of him which, rather than running counter to his desires, show him how he may fulfil a desire he already has. Alternatively, there may be a variety of reasons why a subject might not do A unless he was told to even though he lacks a positive motive for not doing it; for example, he has some slight inclination to do A but this needs external reinforcement if it is to become operative. Any situation of this sort would give point to the authority's exercising his right to make an act obligatory. This is interfering with or limiting the subject's freedom of choice, but part of what makes it a civilized substitute for physical interference is that it need not, although, of course, in many cases it does, make for conflict with the subject's wants.

There is thus a difference between the presuppositions or conditions of pointfulness of commands and permissions, which is a further aspect of the asymmetry suggested earlier[27]: the pointfulness of a command is normally independent of the subject's wants in the matter, whereas permissions, when not given as part of an act of commanding, presuppose (in general) that the act permitted is one the subject does or may want to do. These wants-presuppositions of permissions explain the omission of the negation-act from the actual words of a normal two-way permitting utterance, and provide the rationale behind the guarded 'if you want' which gives a permissive locution the force of an offer of freedom to choose. On the other hand, permissive force can be conferred upon an authority's act of telling someone to do something either by the addition of 'if you want to do it',or when the recipient wants to do A and the speaker's purpose is exhausted, or virtually exhausted, in his refraining from external interference with the fulfilment of that wish.[28] And these abnormal commands suggest an explanation for the wants-presuppositions carried by normal permissions.

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[27] Pp. 98-9 above.

In a normal command the speaker refrains from external prohibitive interference with any inclination on the part of the recipient to do the act enjoined rather than its negation (i.e. he permits what he enjoins), not in order to leave the subject free to act on such an inclination, if he possesses one, but in order that his purpose in issuing the command should not be frustrated as a result of the recipient being given equal reason not to do the enjoined act. That is, the pointfulness of a command is independent of the wants of the recipient because it is dependent, instead, on those of the authority. (That is why 'I want you to do A' can serve for the speech-act of commanding.) But where the wants of speaker and hearer are supposed to be in perfect harmony, or where the command-giver opts not to exercise at the present moment his right to lay down a standard of correct behaviour which is external to and independent of what the subject wants to do, the pointfulness of making it clear that this is what he is doing as regards an act A will depend partly or wholly on whether the subject does want to do A. And *a fortiori*, when all that the authority is doing is explicitly refraining from prohibiting A, as in a normal permitting utterance of the form 'You are permitted to do A' with two-way force, only the subject's wanting to do A can make this a pointful thing to say.

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[28] Compare the Navy shaving example of chap. 3, pp. 57-8 with the interchange 'May I, truly?' - 'Ah, when I tell you' between father and daughter in the passage from Henry James quoted in the Introduction, p. 1.

Although commands, permissions, and prohibitions are fundamentally rooted in the conventions embodied in certain institutionalized practices and do not themselves logically involve reference to the wants of speaker or hearer, the *application* of these conventions is always by and to people with particular wants and interests, whose adherence to them would be *pointless* unless the imposing and removing of these artificial types of 'obstacle' was normally carried out with due regard to these factors in the real life contexts of deontic discourse. 'Normally' here does not mean simply 'more often than not'; the statement is not just a sociological generalization but has to do with the point of deontic concepts, the purposes they serve. For the concept of permission would not be what it is, nor serve the same purposes, were permitting not given point by the holding in standard (though not necessarily all) cases of the presuppositions discussed in this section. The same applies, *mutatis mutandis*, to commanding and prohibiting, which is what makes the 'obstacle' metaphor appropriate.

To sum up, just as it would be pointless to build roads through jungles no one wanted or had reason to traverse, so the practice of granting permissive freedoms presupposes that normative obstacles are (in general) seen as restrictions on one's freedom of choice imposed to suit the wishes of the authority (and only derivatively as obstructions to the fulfilment of wishes that one *might* have), to be removed or not imposed at all when the authority is prepared to let his subject have the freedom to do something he wants or may want to do.

PART II

Permission and the Absence of Prohibition

Preface

The general purpose of the first part of this study was described as 'to lay the basis for an understanding of the concept of permission by exploring some of the connections between permission and freedom of choice'. My objectives here are to consolidate and develop certain conclusions there reached about what it is to give and to have a permission and about how the concept of permission fits into the general pattern of deontic discourse. As before, the discussion is organized around a central, coordinating question: 'What is the relation between permission and the absence of prohibition?'.

Chapter Five

Permission and the Actions of Authorities

Part I started from the deontic square of opposition, which systematizes the basis of von Wright's 1951 deontic logic, and proceeded on the assumption that the square could claim at least initial plausibility as an adequate representation of the logical relationships between the deontic concepts to be discussed. This assumption received a certain justification insofar as attention in Part I was concentrated, on the whole, on the positive formulae of the square, and the import for these of the *oratio obliqua* analysis introduced in chapter 3 may be summarized in the claim that that analysis is both necessary and sufficient to produce acceptable results from the square. Necessary, because of the possibility of an act's being covered by incompatible rulings from different authorities, or from the same authority at different times - which means that the a priori restrictions which the square sets on the nature of any act's deontic situation hold only if that 'situation' is taken as relative to some ruling over the act which is operative or in force at the time in question, and as constituted by that ruling's having established a given deontic status for it.[1] Sufficient, because under this interpretation the square's claims can be supported by consideration of the minimal consistency required for any utterance to convey a coherent enough illocutionary force to count as a case of normative action, as a speech-act which gives a ruling as to what deontic status a certain act is to have. For example, no utterance could be understood as an order to do A unless it was also a prohibition of Not-A and a permission of A.[2] In short, what the square must be understood to claim about its positive formulae is that any ruling speech-act must bring about the truth of (a) at least one of the subcontraries, (b) at most one of the contraries, and (c) both at least one and at most one member of each pair of contradictories.[3] It remains, therefore, as one of the main tasks of Part II, to consolidate this justification of the square by a further defence of the oratio obliqua analysis of deontic propositions and a more detailed account of the performative use of deontic language by which those propositions are made true.

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[1] Cf. chap. 3, pp. 44-7.

[2] See chap. 1, pp. 8-11 for a brief justification in this manner of the square's subalternation relationship, defended further in chap. 3, p. 55ff.

[3] Cf. chap. 3, p. 50; as to (c), cf. e.g. chap. 3, p. 48, above.

As for the negative formulae, it has already been urged[4] that what an authority has not said may enter into the constitution of an act's deontic situation, at least in conjunction with what he has said, so that acceptable results are yielded by the oratio obliqua interpretation for formulae derived from the square involving the conjunction of a negative with a positive formula, such as '[(PA . Not OA) → (PA . P Not-A)]'. Where negative formulae did come into the discussion of the four chapters of Part I, care was taken not to let any important conclusion depend on anything beyond this limited thesis.[5]

But no final assessment of the square can be made until account has been taken of a paradox which arises from its acceptance of 'Not FA → PA' together with its contrapositive 'Not PA → FA'. This paradox may be developed as follows: if the authority hasn't taken normative cognizance of an act, hasn't made a ruling on it, he surely cannot be said to have permitted it; hence it can be described as 'not permitted' - from which it follows, according to the square, that the act is forbidden. In short, if it is accepted (A) that Not FA ≡ PA, and (B) that a negative formula of the form 'Not ...A' is true if the authority has not acted at all with respect to A, then it turns out that any case of authority non-action concerning A has the result that A is both forbidden (from 'Not PA') and not forbidden; both permitted (from 'Not FA') and not permitted; hence both permitted and forbidden. Clearly this position is intolerable. On the other hand, to reject the equivalence is to destroy the basic relation of contradiction between 'PA' and 'FA' on which the square is founded: if 'PA' is to be the contradictory of 'FA' it must be equivalent to 'Not FA'.

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[4] Cf. Chap. 3, p. 55.

[5] See e.g. the cautionary moves made in chap. 1, p. 24 with fn. 15; chap. 2, p. 32, fn. 8; chap. 3, pp. 48-9 and p. 53, fn. 16.

One thing needed, clearly, is an examination of the role played by negation in this field of discourse. The trouble arises from placing no restrictions on the use of negative expressions as equivalents for positive ones. Consider, for example, the top left hand corner of the square, where the negative formula 'Not P Not-A' is said to be equivalent to the positive formula 'OA'. This makes it look as if an authority, simply by doing nothing at all, can (indeed cannot but) forbid Not-A and permit A. But clearly 'OA' can only be true if the authority *has* acted. 'OA' cannot therefore be equivalent to 'Not P Not-A' *if* the latter formula can be true when the authority has done nothing at all. Parallel considerations apply to 'Not PA ≡ FA' and other putative equivalences between positive and negative formulae. As they stand, the two premises (A) and (B) which lead to the paradox are therefore inconsistent, and it would seem that one must be rejected.

ruling on it, he surely cannot be said to have permitted it; hence it can be described as 'not permitted' - from which it follows, according to the square, that the act is forbidden. In short, if it is accepted (A) that Not FA ≡ PA, and (B) that a negative formula of the form 'Not ...A' is true if the authority has not acted at all with respect to A, then it turns out that any case of authority non-action concerning A has the result that A is both forbidden (from 'Not PA') and not forbidden; both permitted (from 'Not FA') and not permitted; hence both permitted and forbidden. Clearly this position is intolerable. On the other hand, to reject the equivalence is to destroy the basic relation of contradiction between 'PA' and 'FA' on which the square is founded: if 'PA' is to be the contradictory of 'FA' it must be equivalent to 'Not FA'.

One thing needed, clearly, is an examination of the role played by negation in this field of discourse. The trouble arises from placing no restrictions on the use of negative expressions as equivalents for positive ones. Consider, for example, the top left hand corner of the square, where the negative formula 'Not P Not-A' is said to be equivalent to the positive formula 'OA'. This makes it look as if an authority, simply by doing nothing at all, can (indeed cannot but) forbid Not-A and permit A. But clearly 'OA' can only be true if the authority has acted. 'OA' cannot therefore be equivalent to 'Not P Not-A' if the latter formula can be true when the authority has done nothing at all. Parallel considerations apply to 'Not PA ≡ FA' and other putative equivalences between positive and negative formulae. As they stand, the two premises (A) and (B) which lead to the paradox are therefore inconsistent, and it would seem that one must be rejected.

The repercussions threatened by the paradox may be measured by the fact that in von Wright's 1951 system the equivalence 'OA $\equiv$ Not P Not-A' was used to *introduce* the O-operator in terms of the undefined deontic category of permission, on the grounds that 'We *ought to* [sc. it is obligatory to] do that which we are *not allowed not to* do'.[6] By contrast, von Wright now rejects his old view 'that (all) permission is mere absence of prohibition', and with it the interdefinability of the O- and P-operators , at least in the old simple style of equivalence via negation.[7]

Instead, he canvasses some more complex possibilities, which involve taking the O-operator as basic and defining the concept of permission in terms of an obligation not to interfere with a person's freedom in a certain respect: either because a permission is a *promise* not to interfere, which the authority then *must not* do, or because 'it is inherent in the nature of permissions to entail rights and/or claims', so that the 'normative element' in permissions may be defined as a command to third parties bidding them not prevent (a right), or positively to make possible (a claim), the permission-holder's performance of the permitted action. Further, if 'permissions as promises' are not self-denying ordinances applied by the authority to his own conduct - and the notion of a 'self-prohibition' is somewhat problematic[8] - the obligation not to interfere is a moral norm, giving permissions 'a peculiar *moral* flavour'. Thus von

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[6] DL pp. 60-1.

[7] NA p. 92; cf. NA p. 85, pp. 154-5.

[8] Cf. NA pp. 76-7, p. 91.

Wright is prepared to 'accept the view that permission as a species of promise can be defined in terms of the other norm-characters' regardless of the prospect of having to deny that 'such permissions are norms of the kind which we have here called "prescriptions"'.

In the end, he reaches no definite decision as to these possibilities for rescuing interdefinability without recourse to the discarded intermediary of negation, but presents claims, rights and promises of non-interference as a series of decreasing strength, each entailing but not entailed by its weaker brethren, without committing himself exclusively to any single variety of permission; consequently he retains permission as 'an independent norm-character' for the purpose of his logic of norms.[9] This is perhaps the most radical departure from his 1951 system and, to judge from the frequency with which the issue keeps coming up during the course of Norm and Action, lies at the root of several of his philosophical views which clash both in detail and in general spirit with positions advocated in Part I of this study.

The problem is initially propounded by von

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[9] All this in NA pp. 89-92. A certain preference (confessed on p. 92) for the prohibitions of interference to third parties which form his analysis of permissions as rights may be observed, as the problem of permission keeps recurring in various connections, at NA pp. 108-9, p. 120, pp. 154-5 (but cp. NA p. 204, p. 206). The identification is actually made in Tranøy, 'An Important Aspect of Humanism', op. cit., to which this section of NA owes much of its material (acknowledged NA p. 90 fn. 1).

Wright in the following terms:

> Is permission an independent normative concept, or can it be defined in terms of obligation (and negation)?[10]

The first issue to be settled is the nature of the two things whose interdefinability is in question. Accordingly, this chapter is devoted to a critique of the linguistic basis of the 'ontology of norms' which forms the philosophical foundation of von Wright's 1963 system.

In the preface to Norm and Action von Wright confesses (what is not readily apparent to the reader of 'Deontic Logic') that he used to regard "the meanings of expressions such as 'OA' or 'P(A & Not-B)'" both "as propositions to the effect that certain categories of acts are obligatory or permitted" and (implicitly) at the same time "as norms enjoining or permitting acts".[11] These two sets of meanings are now separated and assigned to alternative 'descriptive' and 'prescriptive' interpretations of the formulae of the system.[12] The formulae are said to parallel in this ambiguity the sentences constructed with the 'deontic auxiliary verbs' 'ought', 'may' and 'must not' which von Wright now takes as his primary ordinary language 'data':

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[10] NA p. vi.

[11] Ibid.

[12] NA p. 132.

> The deontic sentences of ordinary language, of which the expressions of deontic logic may be regarded as 'formalizations', exhibit a characteristic ambiguity. Tokens of the same sentence are used, sometimes to enunciate a prescription (i.e., to enjoin, permit, or prohibit a certain action), sometimes again to express a proposition to the effect that there is a prescription enjoining or permitting or prohibiting a certain action.[13]

Now prescriptions - commands, prohibitions and permissions - are classified as a subclass of 'norms', a term von Wright applies also to such things as customs, rules, moral principles, and means-ends 'directives'.[14] His preference for the deontic auxiliary verbs seems partly motivated by their convenient adaptability to the expression of any type of norm, by contrast with imperatives, for example, which are predominantly allied with prescriptions.[15] But in fact, von Wright's logical system 'is primarily conceived of as a logical theory of the norm-kernels of prescriptions', 'norm-kernel' being his term for 'a logical structure' which provides 'the common ingredients of all, or nearly all, types of norm' but may admit of specific differences - it is only 'with some caution' that he regards his theory as giving a 'basic logic' of norms in general[16], while the details of his account are really only worked out for prescriptions, his main interest.[17] Von Wright himself often uses the wider term 'norm' in contexts dealing solely or mainly with prescriptions,[18] so it will be fair to focus the discussion of his notion of a norm on the nature of commands, permissions and prohibitions.

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[13] NA p. viii. In a restricted usage not followed in the present study (unless quoting from NA) he reserves the phrase 'deontic sentence' for those with auxiliaries (NA p. 96).

[14] See NA chap. 1, esp. pp. 15-6. It will be convenient to adopt this use of 'prescription'as a generic term for the listed trio, a classification based on such common features as their being given or issued by an authority (NA p. 7).

[15] Cf. NA pp. 100-1, from which it is clear that von Wright does not view prescriptions as essentially connected with, or owing anything of significance to, special features of the deontic auxiliaries.

Read in this light, the quoted passage may be taken to ascribe a similar 'characteristic ambiguity' to 'You are permitted' and other sentences constructed with the deontic speech-act verbs, provided they can be used to report the result of their own performative use. For the passage does not merely distinguish between what Part I called the performative and reportive uses of deontic language; it goes at least some way towards subjecting those uses to an analysis according to which the former use involves enunciating prescriptions, while the latter involves the expression of propositions about their existence. The connection between the two uses is as follows.

The enunciating of a prescription is a 'performatory use of language', more specifically the use of what von Wright calls a 'norm-formulation', which is 'the sign or symbol (the words) used in enunciating (formulating) the norm'. The criterion for a linguistic item to be a norm-formulation is not grammatical or morphological, but its use, or one of its uses, being to enunciate a norm. The notion of a norm-formulation thus depends upon the notion of a norm, and the classification of a sentence as a norm-formulation is always relative to its norm-enunciating use.[19]

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[16] NA p. 70 and p. 130.

[17] Cf. e.g. NA p. ix, pp. 107-8.

[18] See e.g. NA p. 191 on 'cancelling a norm', which only makes sense when 'norm' is understood in the narrower signification 'prescription-norm'.

The act of uttering a prescriptive sentence '"constitute[s]" an act of commanding or permitting or prohibiting', i.e. succeeds in its aim of giving a prescription, when and only when the verbal performance 'results in the existence of a prescription'. This means the establishment of what von Wright calls a 'normative relationship' between authority and subject.[20] Now 'the normative relationship, in the existence of which the existence of the prescription consists'[21] is simply the fact that the subject is under obligation to the authority, or has permission from him, to do the act prescribed.[22] Hence, bringing a prescription into existence is making it obligatory or permissible for someone to do something; in other words, making a deontic proposition true - the same relation between the speech-acts of commanding or permitting and deontic propositions as formed the starting point for chapter 3. For the immediate result of successful 'normative action', as von Wright terms the speech-acts of commanding, forbidding, and permitting,[23] is simply that there has been a successful performance of some type of prescription-giving action: a prescription exists because it has been given and is in force.[24]

Of course, where the truth of a deontic proposition is not being considered as the immediate result of normative action, qualifications have to be added, as in chapter 3[25], to capture the notion of the prescription's having continued to be in force since it was given. But the continued duration of an undissolved normative relationship, which von Wright says is 'the life-span of a prescription'[26], is just its continuing to be true that it is obligatory or permissible for someone to do something. The only further suggestions made by von Wright in this connection (apart from hints that the sanctions attached to the promulgation of the prescription must be being enforced[27]) are, significantly, negative: the prescription has not ceased to be in force for any of the reasons that can 'dissolve' a relationship under norm - a metaphor for such things as cancellation, chronological inoperativeness or 'what in jurisprudence is called desuetudo'[28].

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[19] NA pp. 93-4, pp. 102-3.

[20] NA pp. 116-8.

[21] NA p. 135.

[22] NA p. 117

[23] NA p. 75, p. 116.

[24] NA p. 126; NA pp. 39-41 defines an action's result in terms of an 'intrinsic or logical tie' such that 'the act is, as it were, "defined" as the act of effecting' a certain kind of change.

Thus the reason why 'the existence of a prescription is not the fact, as such, that it has been given, but the fact that it is in force'[29] is simply that its having been given (come into force) entails only that 'it has existed, at least for some time in the past', not that 'it still exists', i.e. is 'still valid (in force)'[30]. Hence, if the immediate result of normative action is equivalent to there having occurred an instance of prescribing, a normative relationship lasts as long as it continues to be as true as it (necessarily) was immediately after the establishment of the relationship, that an act of a certain type has been successfully performed and has not become inoperative for any reason. In short, a deontic proposition is true (a prescription exists) if and only if some past normative action has not been cancelled or otherwise ceased to apply - on the face of it, precisely the same analysis of the reportive use of deontic language and of the truistic way the performative use makes deontic propositions true as was given in chapter 3.

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[25] Pp. 42-3 above. [26] NA p. 118.

[27] NA p. 128, p. 149, p. 157. Enforcement (a) presupposes being in force, since it is only as so that one can be said to be trying to enforce something, (b) requires a threat of sanction to be attached to the prescription's promulgation (thus NA p. 126 et al), to which there are counter-examples even in the legal sphere (see H.L.A. Hart, 'Legal and Moral Obligation', op. cit., p. 99, The Concept of Law, op. cit, p. 20, p. 34, with pp. 193-5 - a persuasive argument for the inclusion of sanctions in a municipal legal system being a matter of natural rather than logical necessity).

[28] NA p. 195. [29] NA p. 118.

Or is it? It has been seen that the main contention of von Wright's account of the performative use of deontic language is that it involves (a) the enunciation and (b) the bringing into existence (or force) of a prescription-norm. Each of these has its import for the nature of commands, permissions and prohibitions.

We may begin with (a). In elucidating the linguistic aspects of his theory von Wright proceeds from a careful distinction, analogous to that between his descriptively interpreted sentences and the norm-propositions they are said to express, between norm-formulations and the norms or prescriptions which are described as what deontic sentences express (in their use) as norm-formulations.[31] This analogy becomes explicit when he states:

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[30] NA p. 195, referring back to NA pp. 116-8.

[31] Eg. NA p. 97, p. 136 and passim.

> The distinction between norm and norm-formulation is reminiscent of the distinction between proposition and sentence.[32]

Now a prescription consists, according to von Wright, of some six 'ingredients', 'components' or 'parts', though only the three which constitute the norm-kernel find explicit expression in his symbolism: the deontic character (the 'ought'-character, the 'must-not'-character, or the 'may'-character), the content ('that which ought to or may or must not be or be done...the prescribed (commanded, permitted, prohibited) thing') and the condition of application ('the condition which must be satisfied if there is to be an opportunity for doing the thing which is the content of a given norm').[33] Thus 'the prescription (norm) expressed in the words "p ought to be done"',[34] may be partially identified in terms of the deontic character, act-content, and conditions of application which those words would make known if they were used, in and perhaps with the help of a suitable context, to enunciate a prescription. For making these details known to the norm-subject(s) is what the use of a norm-formulation accomplishes, what the enunciating or promulgating of the prescription consists in.[35]

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[32] NA p. 93, where it is said to be 'debatable' whether any of the non-prescriptive types for which the notion of norm-formulation is meant to allow can actually be called 'propositions'. Erik Stenius, 'The Principles of A Logic of Normative Systems', Acta Philosophica Fennica 1962-3, subjects DL to what he calls (p. 250) the 'method of double interpretation' and elaborates a very similar contrast between norm-expressing and proposition-expressing; however, he goes further than von Wright (cp. chap. 6 below) by adding a principle that logical relations between deontic sentences are the same for their 'modal' as for their 'factual sense' (p. 251).

[33] NA pp. 70-5. [34] NA p. 138.

The 'ingredients' of a prescription-norm omitted by the abstraction undertaken for the purposes of a logical study of norm-kernels are: the authority, the subject(s), and the occasion for doing the thing prescribed. Nevertheless,

> From a complete statement to the effect that such and such a prescription has been given it should also be clear which are its six...components.[36]

Since, moreover, an authority promulgating a prescription has to make known whose acting he is prescribing (even if it is that of his addressee) and when, I shall continue to regard subject and occasion as includable, along with all other relevant factors, in the compendious act-descriptions symbolized by 'A', 'B', etc.[37] It is true that their successors, the 'df-expressions', are formalized descriptions of doings and forbearings which lack 'vocative' or temporal indicators, but this omission has to be rectified when the symbols are interpreted, by supplying details which, if not any way implicit in the act-description (e.g. 'Abandon ship - every man for himself!'), are central to the logical assessment of prescriptions:

> Two commands, the content of one of which is the internal negation [sc. forbearing] of the content of the other...can be reasonably said to contradict each other only if they...are addressed to the same agent, and are for the same occasion.[38]

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[35] NA p. 94; cf. NA p. 100.

[36] NA p. 70.

[37] Cf. Introd. p. 3. A good discussion of them in this connection may be found in Rescher, The Logic of Commands, op. cit., pp. 11-3, pp. 21-3.

[38] NA p. 147 (cp. Lemmon, 'Deontic Logic and the Logic of Imperatives', op. cit., p. 66); NA pp. 56-60,

The authority, on the other hand, may be contrasted, as the giver, with the prescription he gives - the specification of its 'ingredients' does not presuppose it has actually been enunciated . Von Wright allows for different sentences to express one and the same prescription, and therefore for different utterances of the same sentence to do so, e.g. when an order is re-emphasized or enunciated a second time without having been revoked in between.[39]

It remains, however, a problem whether 'the sense or meaning of a norm-formulation is the norm which it enunciates'.[40] Von Wright declines to go further in specifying the exact relationship of norm and norm-formulation than to reject the equation of prescriptions with either 'the sense (meaning)' or 'the reference' of the corresponding norm-formulations (for von Wright, a 'descriptive' or 'indicative' sentence has a proposition as its sense (meaning) and a fact as its reference, if any[41]). For other types

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pp. 77-83, p. 159. Where a plurality of agents is involved, logical complications are introduced by the mode of address (NA pp. 77-9); cp. Rescher, The Logic of Commands, op. cit., pp. 11-4, pp. 37-8, pp. 58-9, who even recognizes as valid certain 'mixed addressee' command inferences (p. 87).

[39] NA p. 85, p. 105. If any particular authority, such as could be mentioned in the historical statement of the penultimate quotation, were included in the permanent identity of the norm, all prescriptions would be, by definition, authority M_1's or authority M_2's and could only be given by him, with the result that, strictly speaking, M_1 and M_2 would express different prescriptions with the same sentence (cp. chap. 6).

[40] NA p. 104, pleading that an adequate review of the issue would involve problems of philosophical semantics beyond the scope of the book.

[41] NA pp. 93-4; cf. NA p. 18.

of norm, even the question of whether they have truth-value is left open.[42]

But in practice, von Wright treats the analogues to the propositions of his descriptive interpretation as the meanings of norm-formulations in all but name. For example, he says of the two sentences 'If you want to make the hut habitable, then heat it' and 'If you want to make the hut habitable, then you ought to heat it' that they 'would ordinarily be understood to mean the same' and that it would be wrong to say they express different norms.[43] That is, he interprets the sameness in what is done with the two sentences in terms of an identity of what they express, and equates that with what they (at least would ordinarily be understood to) mean. This leads him to describe the distinction of uses on which the dual interpretation of his formulae is based as a distinction of meanings,[44] and to assert explicitly:

> 'You will be leaving the room' does not necessarily express a prediction. It may just as well express a command - and be synonymous with the imperative sentence 'Leave the room' and the deontic sentence 'You ought to leave the room'.[45]

After all, 'the relation between norms and their expressions in language' is supposed to be fundamentally a 'semantic' one, which is how the analogy with propositions is grounded.[46] And it is on this analysis of the performative use of deontic language that the most important fruit of the analogy depends - the conception of prescription-norms as the bearers of logical properties.

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[42] NA p. viii, pp. 103-4; cf. p. 123 fn 32 above.

[43] NA p. 98.

[44] NA p. 105.

[45] NA p. 102 (my italics); cp. NA p. 97 and above pp. 117-9.

[46] NA pp. 93-4.

Now for his descriptive interpretation, von Wright distinguishes between a deontic proposition and the (normative) statement made by the use of a sentence expressing it.[47] But he would not be content simply with a version of the common view that proposition-expressing is an essential, if subsidiary, part as much of the speech-act of commanding (that p be made true) as of that of stating that p, asking whether it is the case that p, or wishing that p were true.[48] For he correlates statement-making with enunciating a prescription and says that when 'used for making... normative statements...deontic sentences express... norm-propositions' (the deontic propositions of my terminology), just as 'when used for enunciating permissions' they 'express permissions'. On his analysis, making a normative statement involves using a deontic sentence 'to express a proposition to the effect that there is a prescription enjoining or permitting or prohibiting a certain action', while using such sentences as norm-formulations is using them 'for expressing norms which are prescriptions'.[49] This distinction, analogous to that between a proposition and the statement of it, between a norm and the enunciation of it, means that for a verbal performance to constitute an act of commanding or permitting, the 'content' communicated or made known must comprise more than the propositional content. For to discover what norm a given norm-formulation expresses it is necessary to take account of the expressive function contributed to the whole utterance by its deontic operator or whatever ordinary language counterpart is used by the speaker to make known the deontic character of the prescription he is enunciating.

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[47] NA p. 10, p. 105, p. 132; cp. the phrase 'the facts which make such statements and propositions true'(NA p. 106, my italics).

[48] A lucid account of these matters is given by John R. Searle, 'What Is A Speech-Act?', Philosophy in America, ed. Max Black (London: George Allen & Unwin 1965) pp. 221-39.

[49] NA p. viii, p. 98, p. 101, pp. 104-5, p. 132.

The trouble is, there appears to be a basic lack of balance in the all-important analogy between norm-expressing and proposition-expressing. The analogy implies that 'I permit you, Jones, to do A' expresses a permission for Jones to do A in a way analogous to that in which 'Jones is doing A' expresses the proposition that Jones does A. But in the way 'Jones is doing A' expresses the proposition that Jones does A (and, taken assertorically, asserts it as a truth), so too does 'I permit you, Jones, to do A' express that proposition (and, taken as a performative use of deontic language, permits it to be made true); while in the way this latter utterance expresses (in a perfectly legitimate but different usage of that verb) a permission for Jones to do A, 'Jones is doing A' expresses, not a proposition but, an assertion or statement about Jones doing A. But if so, the analogy collapses.

At this point we must bring into consideration the fact that the prescription-norm expressed or formulated by a deontic sentence has also to be brought into existence by the sentence's performative use, so as to continue in existence after the act which created it.[50] The difficulty just encountered is due to von Wright's preserving, as part of the identity of the norm which forms the 'content' of the verbal performance, that in virtue of which the norm is describable as 'enjoining or permitting', even 'saying' things, as being 'to the effect that something may be done, etc.' (i.e. he includes the speech-act's requiring or permitting the act as well as what is prescribed and the rest of the propositional content)[51], and at the same time holding that what is properly said to be in force (cancellable, etc.) is not a speech-act[52], but the enriched 'content' to which he applies 'prescription' and allied verbal nouns.

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[50] (b) of p. 122 above.

There is an illustrative contrast in Nicholas Rescher's conception of his logic of commands as dealing with 'commands given' (the 'content of a command') comprising just the 'command requirement', e.g. finding someone's lost dog, plus the relevant temporal and other conditions of application[53] - no more, in other words, than von Wright's norm-kernel minus the deontic character. But the df-expressions left upon subtraction of the O- or P-operator from von Wright's atomic formulae are 'schematic representations of sentences which express propositions'; they can be read in such ways as 'it is being done that p'.[54] The added contribution of the deontic operator sets von Wright's logic on a fully non-propositional basis.

The resultant abstraction of prescriptions from the speech-acts of giving them, so that they become subsequently identifiable for the purpose of asserting their existence, is necessary because 'if deontic logic is going to be anything more than an empty play with symbols, its principles will have to be justified on the basis of considerations pertaining to the ontological status of norms', their 'reality'.[55] Thus

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[51] NA p. vi, p. 92, p. 100 and passim; cp. pp. 189-90.

[52] The verbal performance is necessary for the giving of a prescription (NA p. 94) but is not one of its components (NA p. 70).

[53] The Logic of Commands, op. cit., pp. 8-9, pp. 27-8.

[54] NA p. 29, p. 43, p. 66, p. 74, p. 171.

> 'The fully developed' system of Deontic Logic is a theory of descriptively interpreted expressions. But the laws (principles, rules), which are peculiar to this logic, concern logical properties of the norms themselves, which are then reflected in logical properties of norm-propositions. Thus, in a sense, the 'basis' of Deontic Logic is a logical theory of prescriptively interpreted O- and P-expressions.[56]

It turns out, in fact, that in the logic of norms existence plays a role with respect to norms analogous to the role of truth in propositional logic. In particular, logical relations such as mutual negation, incompatibility, and entailment between norms have to admit of ontological interpretation as the necessity or impossibility of the coexistence of the norms concerned, because that is equivalent to and can be tested in terms of the necessity or impossibility of the joint truth of the corresponding norm-propositions.[57] Here is one of the 'special purposes' for which the existence 'jargon' was invented.[58]

One example will suffice for present purposes:

> A proposition is consistent if it can [sc. logically] be true, a norm...if it can exist.[59]

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[55] NA pp. viii-ix. [56] NA pp. 133-4.

[57] NA chap. 8 passim, esp. pp. 165-6; qualifications introduced by von Wright's notion of a corpus will not affect the present chapter.

[58] NA p. 195.

[59] NA p. 140, summarizing the account of self-consistency given NA pp. 134-5, from which it is clear that the quoted condition is necessary as well as sufficient.

Von Wright's ontological interpretation of the logical properties of his norms is governed by the principle that a prescription's existence, in his somewhat technical sense, is both (a) something equivalent to a certain proposition's truth[60], and (b) something to which the prescription bears a relation analogous to that between a proposition and its truth. So in the present example, the prescription's consistency is the possibility of its existing, just as the consistency of a proposition is the possibility of its being true. The actual existence of a prescription for a certain period of time is the realization of this possibility 'in the world', as 'reflected' in the truth for the duration of that period of the corresponding norm-proposition.

This explains a warning von Wright gives that it would no more be right to identify the command given by a particular successful act of commanding with the normative relationship established by the act, i.e. with the existence of that command, than it would be (quite) right to 'identify' a promise with the normative relationship, between the giver and the receiver of the promise, established, in an exactly analogous manner, by a particular verbal performance which succeeded in its aim of giving that promise.[61] This warning not to 'identify' (quite) a given prescription with its existence must clearly be taken in the light of what would be the import of an analogous warning not to identify a deontic proposition with its truth. Now the definition of consistency just given is such that to subtract actual existence or actual truth from a certain norm or proposition is to leave nothing but the bare logical consistency or capacity for existence and truth with which _the_ norm or _the_ proposition thus specified can be equated. For the distinction required by the warning is in effect that to be drawn between any possibility and its actual realization. And just as the identification of a proposition is exhausted by a specification of what would be the case if it were true, so the identification of a prescription which specifies the six kinds of ingredients in a suitably consistent manner _could_ not have omitted anything which would be involved in the actualization of its capacity for existence; in the event of the prescription attaining the 'reality' which belongs to norms, the corresponding deontic proposition could be used to give a truly 'complete statement to the effect that such and such a prescription has been given'.[62] For consistent prescriptions are not only 'such as _can exist_'[63]; they _are_ possibilities for existence. Or, to put the point in a more down-to-earth way, to identify a command as that expressed by a certain sentence is to specify what _would_ be the result if that sentence were successfully used as a norm-formulation.[64]

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[60] NA p. 189.

[61] NA p. 117 and above p. 120f. Cp. G.H. von Wright, 'On Promises', Theoria 1962:3, p. 277, where promises are said not to be utterances, sentences, acts, relations between the givers and receivers of promises, or a kind of obligation - though all these must have a place in a satisfactory account of promises - but to belong, with agreements and contracts, in a category which lacks a name.

But consider someone who utters, with the aim of issuing a prescription, a deontic sentence possessing von Wright's 'characteristic ambiguity', that is, one which can also be used for stating the existence of the prescription the speaker aims to issue. The following two ways of identifying his utterance as a successful case of prescription-issuing have been seen to be equivalent[65]: (a) bringing about the existence of a certain prescription - call it P_1 - and (b) making true the proposition - call it P_2 - that P_1 exists. Both (a) and (b) describe the realizing of a certain possibility, referred to as 'prescription P_1' and 'proposition P_2' respectively. Neither makes explicit anything of the method by which this aim is achieved, and the equivalence is based solely on that of the results obtained; so it is in securing these results that the realizing of P_1 and P_2 must consist. But a possibility can only be defined by specifying what its actualization would involve. So P_1 and P_2 must be equivalent if their actualizations are. That is, P_1 and P_2 are logically *indistinguishable*. The supposed analogy and contrast between norms and norm-propositions is in fact an *identity*.

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[62] Pp. 123-4 above - nothing depends, of course, on the sextuple analysis being correct.

[63] NA p. 135.

[64] Cp. p. 123 above.

In the last analysis, then, what von Wright's prescriptively interpreted formulae express are the possibilities realizable as the result of successful normative action, and these possibilities are always propositions - deontic propositions.

A further difficulty in making prescriptions in von Wright's sense of the term the subject matter of a logical theory is that they are also *oratio obliqua* propositions.[66] To show this, consider the implications of the fact that to enunciate a prescription, as von Wright conceives it, turns out to be to identify (make known the ingredients of) the possibility one means to realize - this is the prescription one means to bring into force, and it is indistinguishable from the proposition one intends to make true. A possibility thus actualized in and as the immediate aim of a verbal performance can only be a possibility 'for having done something with words', for a result to the effect that a verbal performance has succeeded in its aim of constituting a linguistic act of a certain type. If, then, it is a possibility of this sort which is properly said to be in force, i.e. to have been realized as a deontic state of affairs which has continued to obtain up to a given time, what is in force is a possible result of a linguistic act, of a use of language 'similar to the use of words for giving promises'[67], and its being in force is that possibility's continuing to be actual, to retain its 'reality'. But this only means that what becomes true as the immediate result of the act continues to be true, that it continues to be as true as it (necessarily) was immediately after the act, that an act of a certain type has been successfully performed and has not become inoperative for any reason. It follows that, in von Wright's usage of the verbal noun phrase, 'a prescription' refers to a proposition about the occurrence without subsequent

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[65] Pp. 119-122.

[66] The restrictions this involves are clearly put by Rescher, *The Logic of Commands*, *op. cit.*, pp. 8-9; cp. also E.J. Lemmon, 'Deontic Logic and the Logic of Imperatives', *op. cit.*, esp. pp. 61-5, who argues for

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the preferability of interpreting standard principles of deontic logic as concerning orders-in-force and then raises worries about the possibility of referential opacity.

[67] NA p. 94

revocation of a deontic speech-act.

It remains to put the linguistic record straight. Notice first that ex hypothesi P_1 and P_2 are expressed by the same sentence; so it makes no difference whether the sentence be used reportively, 'expressing P_2', or performatively, 'expressing P_1'. It is one and the same possibility whose actualization is spoken about in the reportive use and accomplished in the performative use - on the principle that 'in speaking a language I attempt to communicate things to my hearer by means of getting him to recognize my intention to communicate just those things'[68]- by the speaker conveying his intention of so doing. The difference between the two uses of such sentences is not a semantic one at all, nor indicative of ambiguity[69]; it is not a difference in what the sentences(are used to) express in von Wright's sense, but a difference between their being used to make true and to report as true the deontic propositions they express in both uses.

Correspondingly, the deontic characters of von Wright's prescriptions are what is marked by the presence of the O- and P-operator or some ordinary language equivalent in the verbal expression of a deontic proposition: the jussive or permissive aspect of the speech-acts whose results such propositions formulate - the illocutionary force in virtue of which the utterances referred to may be described as the requiring or permitting of a certain act. Making known this ingredient of the possibility to be realized is simply indicating part of how one intends the result of one's prescribing utterance to be reportable - as an order or as a permission. And to indicate what specific type of speech-act one intends to have performed an instance of is something that has to be done by a speaker who intends to have asserted that p as much as by one who aims to have commanded that p.

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[68] Searle, 'What Is A Speech-Act?' op. cit., p. 228, where an attempt is made to give a precise formulation for this fundamental feature of the way speech-acts are performed.

[69] Cp. p. 117f above.

Hence, the view that all deontic sentences with a performative use, including imperatives, express prescriptions in von Wright's sense reduces the definition of norm-formulation to triviality: a norm-formulation is a sentence that can be used by a speaker to make known that his utterance is intended to bring it about that there has been performed an instance of, e.g. permitting A.

What is confusing is that some deontic sentences, namely those that can be used to report their own performative use, may also be said to express deontic propositions in another, properly semantic sense. Von Wright so uses his expressing terminology that both the reportive and performative uses of a deontic sentence are dependent on, and to be explained by, the sentence's expressing something: as the speaker's making use of the 'semantic capacity' which fits it as an instrument for this purpose. However, the fact that 'norm-formulations, linguistically, are a very varied bunch', together with the fact that many of the sentences in question are also used for purposes other than commanding and permitting (in particular, for reporting the results of those speech-acts), leads him to identify the expressive powers which are to help explain a sentence's being used for normative actions as those it possesses in its use as a norm-formulation, a use which is and can only be specified as its use for normative actions.[70] This qualification, whereby a sentence expresses a norm only in its performative use, not only threatens to introduce a circularity, since the use of a sentence for normative action is described in such terms as its use 'for expressing a norm' or as a sentence expressing one[71]; it also trivializes the explanation of the two uses of deontic sentences: if expressing is always expressing-in-a-use, 'expressing a prescription' simply ascribes to a sentence in its use for norm-expressing the capacity for being so used, and so identifies the semantic basis which fits it for use in norm-expressing performances in terms of the use its meaning should help to explain. In fact, von Wright's treatment of a sentence's expressing a prescription as just its having use as a prescription-expressing sentence is but the converse of the tendency noted above to interpret sameness of use, of what can be done with a pair of sentences, as sameness of what the two sentences express (or mean) in that use.[72]

But it is surely more plausible to suppose that so many grammatically different sentences are available for the role of normative action rather because than in spite of their differences, which create a plurality of semantically different means for performing (in suitable contexts) the same type of speech-act, that of issuing a prescription. If allowance is made for sentences with various sorts of difference in meaning being used for the same purpose (e.g. 'Do A, if you want' and 'I permit you to do A', or 'You must not do A' and 'I don't want you to do A - I forbid it'), explanations may be called for of why the meaning of a given sentence fits it for that task in the given context. These will provide a way of linking what it means with what it is used to do which, instead of reducing to the relatively trivial fact that a sentence with the capacity of being used for a certain type of speech-act can be or normally is so used, explains why the sentence should have that capacity in the first place. Conversely, given suitable explanations, sameness of meaning will be no obstacle to the sentences being used for different purposes, so that a deontic sentence may be said to express the same thing (as in the case of P_1 and P_2) in both its performative and reportive uses.

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[70] NA pp. 101-3 (cf. pp. 119-20 above); NA p. 132.

[71] Cf. p. 127 above.

[72] Cf. p. 126 above.

But whatever the meaning which gives a sentence the capacity of being used for the performance of a certain type of speech-act, this capacity still has to be 'activated' by a speaker who wishes to exploit its meaning for that purpose. He must and can indicate by his use of e.g. 'You are authorized to drive a car', whether what he means to accomplish as the immediate aim of his utterance is the issue of a driver's license or a statement such as a report of the addressee's success in passing his driving test. Since either is made possible by the meaning of the sentence, it cannot be sufficient to account for a speaker's using it for issuing a prescription solely in terms of what it expresses or 'would ordinarily be understood to mean'.[73] The sentence and its expressive powers merely form the means which, without doing the job for him, enable the speaker to accomplish his intended purpose of issuing a prescription. To accomplish that purpose, the speaker must communicate his aim of doing so, i.e. he must convey the intended illocutionary force of his utterance. Neither the sentence as a whole nor the part which serves to indicate the deontic character as opposed to the df-proposition expresses that force as its semantic content, though the meaning of the sentence as a whole is what explains the availability of the sentence in question for conveying a certain illocutionary force and thereby for successfully performing a certain type of speech-act.[74]

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[73] Cf. p. 126 above.

With examples like 'You are authorized to drive a car' the two uses are made possible by the fact that the proposition expressed by the sentence (in the ordinary sense) is such that the sentence can be used to express (in von Wright's sense of 'enunciate' or specify) the immediate result his utterance is intended to have. This is one way of identifying the type of speech-act the speaker means to perform, and so of conveying the illocutionary force and propositional content of his utterance. By contrast, 'I authorize you to drive a car' cannot be used to report its own performative use. It works from a different semantic basis; if regarded as expressing a proposition which is true if and only if I do authorize you to drive a car,[75] this would explain its availability to indicate that proposition as one I intend to be true of my utterance itself (as opposed to its result), i.e. to identify authorizing you to drive a car as the description I intend to satisfy.

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[74] This distinction is discussed further in application to the notion of a neustic; chap. 6 below.

[75] This is how von Wright elsewhere regards 'I promise to come', though mistakenly supposing it might on that account be possible to combine in one speech-act 'the two intentions of giving a promise and stating that one is giving a promise'. ('On Promises', op. cit., pp. 287-9).

But in the sense in which (as von Wright holds) all deontic sentences with a performative use express prescriptions, the expressive connection used to define the notion of a norm-formulation, not being a semantic one at all, is not analogous to proposition-expressing in the way von Wright's dual interpretation requires.

For example, 'I want you to get me a cup of coffee' can be used to convey the speaker's intention of making true the proposition that an order is in force for coffee-making in the immediate future, but it does not express that deontic proposition in anything like the way that (even in its order-giving use) it expresses the proposition which it could be used (reportively) to assert. Its relation to the deontic proposition consists simply in the possibility of being used for (conveying an intention of) making it true, that is, for bringing it about that coffee-making has been ordered, which in turn is equivalent to: it expresses, in the sense that it can be used for, a command to someone to make coffee. That is why even the identification of prescriptions with deontic propositions will not save the analogy by preventing prescription-expressing (in von Wright's non-semantic sense of 'express') being akin to assertion-expressing rather than to proposition-expressing.[76]

I conclude, then, first with regard to deontic propositions, that the acknowledgement that it is not a contingent fact that deontic states of affairs require normative action for their creation[77] commits one to the oratio obliqua analysis of chapter 3 and to the view that the 'facts which make norm-propositions true'[78] consist in and are constituted by the success of particular speech-acts of commanding or permitting; these facts or states of affairs obtain for just so long as nothing intervenes to make it inappropriate to refer to the success of the speech-act which brought them about in determining the deontic status of a given act, that is, in establishing whether the authority has said it is to be or need not be done.

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[76] Cf. p. 128 above; on the use of 'want'-sentences for commanding, see chap. 4, p. 108.

Secondly, as to the commands, permissions, and prohibitions about which the interdefinability problem was raised, it is reasonable to go on regarding them, as in Part I, as speech-acts, type or token, and the verbal noun phrases will be interpreted accordingly. This does not mean that nouns like 'permission' always refer directly to a speech-act, only that what is said with their use should be analyzable in speech-act terms. Thus even ordinary English makes common enough use of such sentences as 'There is an order in force that a fire extinguisher is to be kept on every staircase'. But since their truth-conditions are equivalent, as von Wright agrees, to those of such sentences as 'An order that a fire extinguisher is to be kept on every staircase has been given and has not been revoked, lapsed, etc.', the existential phrase is something of a façon de parler, a convenient way of giving expression to the quite unmysterious feature of speech-acts such as permitting (as also of promising), whereby, although permitting consists simply in the utterance of certain words on a particular occasion, it can have reference to the near or distant future, so as to cover action over a lengthy period of time, without needing a material object, e.g. some marks in a book of rules and regulations or on a card (permit, visa, etc.) to function as the vehicle for what we may be pleased to call the permission's continued existence through time. Therein 'lies the reality of norms'.[79]

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[77] NA p. 94: 'The existence of prescriptions necessarily presupposes the use of language in norm-formulations.'

[78] NA p. 106.

Finally, a concluding section devoted to the deontic auxiliary verbs and the rather wider issues they involve will serve both to remove the stigma of equivocity from an important class of sentences and to indicate more generally the force and utility of the findings of this chapter.

'Must' and 'may' ('can') are frequently used to give commands and permissions, but from this it does not follow that they can serve for reports of their own performative use or be subjected to von Wright's dual interpretation.[80] 'Must'- and 'may'- (like 'want'-)sentences express, even as norm-formulations, propositions which do not fall within the deontic square of opposition at all, since the occurrence of a certain type of speech-act is not adequate to satisfy their truth-conditions.

Take a pair of conflicting commands issued with the aid of 'must' (or, mutatis mutandis, a clash between 'may'- and 'must not'-utterances): Father tells Tony he must always hit back when hit first, Mother that he must never do so. It is logically impossible for Tony to obey both his parents, but his position with regard to retaliation can be described, without inconsistency in the description itself[81], by means of the speech-act verbs: retaliation is both forbidden him (by Mother) and enjoined upon him (by Father). Quite an ordinary situation - but one liable to a paradoxical twisting from the doctrine that commands make it the case that the act commanded must be done: (i) the alternate formulation of the result of the parental disagreement, namely 'It is true both that Tony must hit back and that he must not hit back', is a contradiction if 'must' and 'must not' are contraries, as they appear to be[82]; (ii) if it is also accepted that 'must' entails 'can' in some ('physical') sense stronger than the bare contradictory of 'must not', then the giving of a command entails the recipient's ability to obey.

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[79] NA p. 106.

[80] Pp.117-8 above.

[81] Cf. chap. 3, pp. 50-1 above.

For example, an officer says to a soldier under his command who has never learned to swim, 'You (must) swim the river at once!'. Grant it is impossible that the soldier must do something he cannot do and, by contraposition of the doctrine that being commanded entails the ability to obey, the officer did not succeed in commanding him to swim the river. This consequence is accepted by von Wright as fitting his theory that commands manifest efforts to constrain compliance with one's will: 'If the subject cannot do the thing in question, neither can he be made to do it by being commanded'; nor can he be allowed to do it by a permission.[83] Von Wright represents his paradoxical position as an application of the principle 'Ought implies Can', putting up a defence on behalf of the soldier at a court-martial for disobedience which has the unfortunate side-effect that the nullification of the officer's (attempted) command makes him as immune from any charge of abusing his authority as the soldier from one of insubordination.[84]

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[82] So classified by E.J. Lemmon. 'Moral Dilemmas', Phil. Rev., Apr. 1962, p. 150.

[83] NA pp. 122-3 (NA p. 125 acknowledges the departure from 'how we often and naturally express ourselves'); see further chap. 6, p. 182ff below.

But in harnessing both 'ought' and 'must' to express an 'O-character' common to both prescriptive and other 'obligation-norms', a more or less undifferentiated idea of *obligatoriness* designed to function, with the other elements of the norm-kernel, as a principle of unity for the somewhat heterogeneous category of norms, von Wright joins what he elsewhere separates as a distinction hinted at by ordinary language which logicians have reason to observe: between the 'ought' he uses to express a man's *obligation*, e.g. to do something he has specifically promised to do and a 'must' expressing the '*practical necessity*' of an action requisite for some end.[85] Moreover, whereas obligations can conflict without being invalidated by the impossibility of collective discharge, if a person does not perform some action, it cannot have been true at the time that he must do it (even if beforehand he thought it was going to be impossible to avoid); for it cannot subsequently be correctly said that he _had_ to do it. Omission of the obligatory is frequent, and in a case of conflict unavoidable, but everything that has to be or must be done is actually done, just as what is necessarily the case is so in fact.[86] From this it is fair to conclude that the requirements of practical necessity cannot conflict and that, unlike 'obligatory to do' and 'obligatory not to do', the contrariety of 'must' and 'must not' is not relative to any source or ground. And if 'must do' entails 'does do', _a fortiori_ it entails 'can do' in every relevant sense.

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[84] NA p. 115; cp. chap. 4, p. 75 above.

[85] 'On Promises', *op. cit.* and 'Practical Inference', *Phil. Rev.*, Apr. 1963. Contrast p. 118 above and the flexible approach to the interdefinability of permissions as promises, p. 115f. R.M. Hare, Critical Study of *Norm and Action*, *Phil. Quart.*, Apr. 1965, pp. 173-4, rightly focusses on the failure of the concept of a norm-kernel to unite the heterogeneous as the important issue, contenting himself with the mild linguistic stricture: 'It may be questioned whether "ought" *ever* expresses "prescriptions" in [von Wright's] narrow sense'. Certainly von Wright, when wielding the trio of deontic auxiliaries 'ought', 'must not', and 'may', of which the first two are interdefinable (NA pp. 83-4, quoted chap. 6, p. 163 fn. 18 below), errs e.g. in thinking there is such a thing as 'a captain's command to the passengers "Someone ought to leave the boat"'(NA p. 78; cp. NA p. 102 and p. 138, respectively quoted p. 126 and p. 123 above). But this does *not* mean he is guilty of what George Pitcher, Review of *Norm and Action*, *Phil. Rev.*, Oct. 1965, p. 521ff, attacks at length as his 'wrong-headed' *assimilation* of 'ought'-judgments (i.e. 'whatever is [sc. actually] expressed by such deontic sentences as "You ought to do such and such"') and such things as commands, rules, and regulations . Von Wright simply thinks (wrongly) that the latter - or the obligations deriving from them - can always be expressed by 'ought', not that 'commands are a kind of "ought"-judgment' or vice-versa (cf. NA pp. 100-1).

On the other hand, the possibility of conflict does not prove that being under a certain obligation (von Wright's 'normative relationship'[87]) _is_ compatible with inability to discharge it. For although the formula '$(OA \,.\, OB) \rightarrow O(A \,.\, B)$'[88] is valid if the O-operator represents a 'must' detachable from whatever 'necessitates' the actions A and B, agglomeration of obligations from different sources would produce a hybrid commitment in several directions at once, owed to nobody in particular and incurred neither through some undertaking of one's own nor through another's imposition. Even reading 'OA' here as 'A ought to be done' will not generate a clash between cases of obligation-conflict and the 'Ought implies Can' principle, since the view that, if A is something one is under obligation to do one ought to do it,[89] runs counter to the fact that, sometimes at least, there can be reasons for supposing the obligatory ought not to be done.

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[86] Cf. E.J. Lemmon, 'Moral Dilemmas', _op. cit._, p. 150, contrasting 'must' with 'ought'. In 'Practical Inference', _op. cit._, p. 161 von Wright notes the ring of contradiction imparted to 'I ought to do this but I am not going to do it' by substitution of 'must' for 'ought', explaining it as due to 'must' being somehow the stronger. Cp. NA p. 101.

[87] Cf. p. 120 above.

[88] DL p. 72, although (as noted chap. 2, p. 27 fn. 1 above) DL rejects the permissive analogue; cp. NA pp. 156-8, where norm-entailment is kept relative to the corpus of prescriptions set up by a given authority.

Yet if 'it makes a mockery of our usage to claim that a rightly renounced obligation could not have been a true obligation, sans phrase, in the first place'[90], much the same seems to hold for obligations one is unable to discharge - they are not necessarily voided.[91] However one happens to become bound to the performance of an action, one remains under the obligation unless released in some way specifically provided for by the rules under which the obligation was generated. That is what makes conflicts of obligation possible. By contrast, the truth-conditions for saying of an obligatory action that someone is able to or must perform it, or even that he ought to, are not endowed with this artificial independence from the general turn of events.[92]

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[89] Held analytically valid by Lemmon, 'Moral Dilemmas, op. cit., p. 139ff (cp. 'Deontic Logic and the Logic of Imperatives', op. cit., §2), who then uses the 'ought' reading of the agglomeration formula against 'Ought implies Can'. By contrast, Williams, 'Ethical Consistency', op. cit., p. 117ff. uses 'Ought implies Can' against agglomeration for 'ought'.

[90] Feinberg, 'Supererogation and Rules', op. cit., p. 279.

[91] Feinberg notes (ibid, p. 288 fn. 5): 'In civil law an insane person can be held liable for his torts'.

[92] Some aspects of this backward-looking tendency in the idea of obligation are discussed in C.H. Whitely, 'On Duties', Arist. Soc. Proc. Vol. LIII 1952-3.

The mitigating powers of the plea 'I had to do it - I was acting under orders' are neither so negligible nor so overwhelming as to justify a reading of the first clause, such as one to the effect that there was a norm manifesting a want or will to make me do the action, which would equate obedience to orders and a form of practical necessity - 'I had to', in short, does not mean that someone required me to.[93]

Now a requirement is said to be 'that which is called for or demanded; a condition which must be complied with', to require (as a kind of speech-act) being 'to demand *as* necessary'[94] - and a demand based upon a rightful claim is one kind of obligatory-making utterance, just because the claim is equivalent to another person's duty to comply with some condition if required.[95] So even if the obligatory is to be firmly distinguished from what is practically necessary, the two seem closely connected:

> All duties and obligations, whether imposed by authoritative injunctions and prohibitions, acquired through accepting or inheriting an office, job, or role, or voluntarily incurred through promises and other contractual agreements, share the common character of being required.[96]

Like orders, a demand makes no truth-claim. Although, therefore, 'M said that we must go' could be used to report something said by M about what was practically necessary, perhaps while giving advice, using it to report the making of a demand cannot be to speak of M as having alleged that as a matter of fact we had (for reasons unspecified) no option but to leave. Yet neither would such a report commonly depend for its truth upon whether M actually used the verb 'must'. Accordingly, to understand it as concerned with a demand involves taking 'must', not as part of the description of the utterance's propositional content, but as an indication of the sort of act of *saying* this was, as signifying that its illocutionary force involved an intention that our departure be (made) necessary. Similar considerations apply, *mutatis mutandis*, not only to the *oratio recta* use of 'must' as a direct signal of an intention to oblige (constrain), but also to 'may'-sentences and to future indicatives like 'You will proceed forthwith to your destination', together with their *oratio obliqua* correlatives 'might', 'were to', etc.: for these, just substitute an intention, respectively, that some action be possible and that it be done. Note, finally, the use for permission-giving of sentences like 'It will not be necessary for you to make up your overdraft this month'.

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[93] Cf. NA pp. 105-6 with pp. 118-21.

[94] O.E.D. svv., my italics.

[95] Cf. Wesley Newcomb Hohfeld, Fundamental Legal Conceptions (London: Humphrey Milford - Oxford Univ. Press 1923), pp. 36-50. Claim-based demands are a new addition to the imposition side of the dual classification sketched in the Introd., p. 5 above.

[96] Feinberg, 'Supererogation and Rules', op. cit., p. 277, adding 'and this in turn, while it may involve more than coercion or pressure, rarely involves less'.

What this group of sentences have in common is that, being primarily assigned by the rules of the language to convey propositions about states of affairs whose realization is typically aimed at as the *further* outcome of certain practical utterances, they are naturally suited to a performative use in which they specify the communication intention of the utterance itself, by indicating that it is meant to be a *speech*-means to the end they describe. It is still as conveying these propositions that they perform this secondary function, although the propositions are not asserted as true - in many cases, after all, such anticipation would be rash. And it is only as specifying the *immediate* aim of the utterance, as expressing what the speaker means to *be doing*, that these further outcome descriptions serve to convey the force of an order or demand (compare the *present* import of the ostensibly future-describing utterance 'No music will be permitted after 11 p.m.'). For a demand is no more the announcement of an ordinary intention to constrain someone to comply with certain conditions ('You're going to have to leave - I'm locking up') than is an order the profession of a resolve to enforce (by whatever means) a certain pattern of conduct.

Rather, one way a speaker can indicate how he means his words to be taken is by purporting to have an intention that the utterance of them shall have obliging or constraining effect. Whether or not he *is* actually aiming to oblige, and regardless of whether the recipient, having understood, finds the 'prod'[97] a sufficient goad to make him *feel* obliged to meet the speaker's conditions, the utterance is presented as *meant* to be, in itself, a decisive reason for action, sufficient grounds for regarding the conditions as ones that *must* be met.

But since it is the utterance alone upon which this 'necessitating' depends, no truth-claims about independent matters being involved, the only obliging intention actually ascribed by a command-reporting use of 'M said that ... must ...' (or indicated by 'must' in *oratio recta* performative use) is the communication intention that the utterance shall be *understood* as (meant to be) necessitating, that is, as one which requires or calls for action in compliance with it, rather than one which actually leaves the recipient with no option but to obey. A demand or order presents itself as a reason sufficient to leave no alternatives open. That done, an obligation has been imposed, and it depends on the recipient whether or not he finds obedience a practical necessity. Within the span of a speech-act more can hardly be expected; nor should it, if the speech-act is to remain a civilized, though ever fallible, substitute for methods of constraint.

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[97] Another of Black's phrases, 'Meaning of "Rule", II', *op. cit.*, p. 145; cp. chap. 4, p. 106 above.

This usage would not be so intelligible and natural were it not that, although it cannot be a matter of logic alone that an agent ordered to do something must do it, it often is or is thought to be true that the recipient of an order has no reasonable choice but to obey. The deontic auxiliaries could not otherwise be used so often to report facts such as the practical possibility of parking in a certain place - it would be pointless to remark 'You may (can) park here' to someone looking simply for a physically unoccupied space such as 'here' indicates. For to use a normative license as grounds for a categorical assertion that one need not find a car-park but may just leave the vehicle on a given side-street requires a context where it is presupposed, both that the weather, for example, has not provided its own obstacle in the form of snow, and that a parking ban (or the threat of sanctions behind it) would be a sufficient deterrent to the driver. Even for law-abiding citizens that is not always so - a man rushing his wife to hospital might not unreasonably refuse to agree he must not park at a certain place while still conceding it was forbidden.

The deontic auxiliary verbs cannot be equated with the deontic speech-act verbs because the former are (a) unspecific as to the kind of reasons whose presence or absence they express, except insofar as (b) they describe them as compelling and decisive. The conventional reasons imposed or removed by authority utterances are just one kind of reason for action among many, even if they are typically meant to feel compelling. The meaning of 'must' and 'may' makes them available for commands and permissions because, in the predominately rule-observing way of life necessary for the continued viability of the conventions of authority-subject institutions, authority-issued reasons for action are not normally rejected as operative determinants of behaviour without good and strong countervailing reasons.[98]

If, however, the propositions expressed with the aid of 'must' and 'may' in this performative use can also be asserted, if not to report that use, then still to express the practical import it may well have for the recipient of command or permission, practical necessity should not be relativized to the aims of either party, authority or agent. No doubt, the existence of such aims is a precondition of a notion of practical, as opposed to e.g. natural, necessity having application, but that does not make it a priori true that 'something must be done when doing this is (causally) necessary for the attainment of some end'[99]. 'There is something X wants but will not get unless he does A' does not even entail 'X must do A'[100], let alone give its meaning.[101] Rather, 'I had to swim for it' means just that, not 'Swimming for it was the only way of saving my skin', which is doubtless true but misses the point: that the speaker had, or considers himself to have had, no alternative but to try to keep afloat. By analogy with the previous arguments,[102] if the contrariety of 'must' and 'must not' is accepted, a case of conflicting wants will show that wanting to do A is no more sufficient to make it the case that one must do A than is receipt of a command to do A; if, on the other hand, it is rejected in favour of relativizing the 'must'-proposition to the agent's desires, 'I (felt I) had to do it - I wanted to (so badly)' becomes weakly repetitious or neurotically compulsive.

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[98] O.E.D. svv. locates the basic meaning of 'must' and 'may' in the concepts of necessity and possibility, as here. In application to practical possibility, however, 'may' is now largely replaced by 'can' - except where the sole or primary issue is a freedom due to a permission. This may (i.e. possibly does) make 'may' mean the same in such contexts as 'is permitted' - for when does a restriction of application qualify as a narrowing of sense? I take comfort from the fact that it is still permissible to ask, without being referred to any officials, where one may hear the nightingale or learn how one may best prepare for an interview, and likewise whether someone might not have had the decency to apologize. Convenient though it is to associate 'must' with 'may', the argument would not lose from substitution of 'can' as appropriate; this, like its subcontrary 'need not', is freely available over the whole range and carries in both performative and reportive uses a clear connection with the general notion of practical necessity.

[99] Von Wright, 'On Promises', op. cit., p. 293.

Of course, a person's wants, values and priorities are influential determinants of what counts as a practicable alternative for him. But 'necessity' is a strong word - often, it is not easy even to determine the _best_ available policy (which could make appropriate various uses of 'should' or 'ought', if not of 'must'), while a peculiarity of practical thinking is that the agent's ends and values, even his conception of the choice-situation confronting him, are subject to _alteration_ through others' argument and persuasion, or through his own reevaluation; to say nothing of the difficulty in practice of ascertaining the empirical means-ends connections. Moreover, part of what makes a situation one that calls for _choice_ is that selection of an end to be pursued as the sole practicable (acceptable, reasonable) policy - a selection presupposed or involved in the drawing of a 'must'-conclusion after reviewing the relevant considerations - cannot be left to logic or the world. A decisive reason for action is precisely one that is a sufficient basis for _decision_.

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[100] Contra Nicholas Rescher, 'Practical Reasoning and Values', Phil. Quart., Apr. 1966, who claims the inference is valid if (p. 135) the premise means 'wants-in-the-final-analysis' (which it can't), or (pp. 122-8) the conclusion is restricted to A's being a sensible thing to do for one concerned just with the satisfaction of his desires (which every parent knows doesn't follow).

[101] As claimed by von Wright, 'Practical Inference', op. cit., p. 164. In NA, the means-ends 'directives' mentioned above p. 118 are described as 'technical norms...concerned with that which ought to or may or must not be done for the sake of attaining some end' which, though categorical, enjoy only an existence conditional upon the agent's wanting the end and are distinguished from hypothetical (prescription-)norms proper by the fact that the latter have only their content, not their character and existence, conditioned; see NA p. ix, pp. 9-11, pp. 15-16, p. 103, pp. 170-1.

[102] Cf. pp. 143-5 and p. 147 above.

Again, telling another categorically, by way of advice, remonstrance, etc. that A is what he must do implies that one really thinks it true without qualification, unless the considerations to be counted relevant for his choice are clearly demarcated in the context, so that no qualification need be explicitly entered as a condition on the 'must'-statement conveying the counsel. The advisor's role - to present the outcome of deliberation undertaken, as it were, from the viewpoint of the agent's wants and interests - may be well served by a claim that the agent has some reason for doing A which, though not specifically identified in the utterance, is described as decisive and compelling. But as such, this claim can occur (even in the second-person) by way of a 'neutral' bystander's comment which makes no attempt to meet the relevance criteria of a practical speech-act. Only as purporting to justify advising the agent _to_ do A does a 'must'-utterance acquire the force of advice that A is necessary. If presenting A as something essential to or required by the agent's interests is a natural way of urging him *to* do A, this urgent force is an 'extra' acquired in an advice context where a single 'must'-utterance is responsible both for telling the agent to do A and for indicating the necessity of doing so. That is, although 'You must do A' does not *mean* 'Unless you do A, you will be unsuccessful in the pursuit of some end of yours',[103] in an advice context it can be made to carry the force of a warning to that effect.

Even so, the full schema for using 'must' to advise remains 'Do A, because it is necessary (in your own interests) to do so'.[104] The 'must'-proposition, as such, is the same throughout all these varied uses of the sentence expressing it, and its assertion in a practical advice context plays the role of justifier to the urging or proposing part. This latter is not a truth-claiming utterance, so the justification claimed for it does not require that it be interpreted as a conditional about the (causally) necessary means to some end[105]; on the other hand, to seek its justification in the rules that determine the meaning of the auxiliary (in second-person use)is to identify conformity to those rules as what makes the utterance sound advice, or even advice at all.[106] But 'must'-sentences no more express as their meaning the advice they may be used to give than they do the commands of von Wright's 'characteristic ambiguity'. And the advisory task of justifying the practical aspect of a complex illocutionary act is adequately fulfilled if there is in fact a decisive reason for the agent to act in the manner prescribed.[107]

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[103] *Pace* von Wright, 'Practical Inference', *op. cit.*, p. 164.

[104] See chap. 4, pp. 80-9 above on advising and other reason-giving speech-acts.

[105] As in von Wright, 'Practical Inference', *op. cit.*

[106] Thus Max Black, 'The Gap Between "Is" and "Should"', *Phil. Rev.*, Apr. 1964. *Contra*, Mendel F. Cohen, '"Is" and "Should": An Unbridged Gap', *Phil. Rev.*, Apr. 1965 (esp. on Black's 'factual' - 'performative'

Either, then, a 'must'-proposition is _about_ some practical necessity (or possibility) conceived as independent of the speech-act, or its function is to determine the illocutionary force of the utterance as meant to be _itself_ a reason which leaves (so far as it goes) no alternative open but the action it requires _as_ necessary. But that only means that a command for A does not permit (forbids) Not-A. So despite the occurrence in deontic discourse of 'must'- and 'may'-sentences, obligation-creating or duty-imposing or obligatory-making actions do not make it true that anything must, needs, or has to be done. Conversely, 'must'-statements cannot be analyzed as 'to the effect that _there_ _is_ a prescription enjoining ... a certain action'[108].

In themselves, conventional reasons never necessitate, nor do conventional freedoms provide enabling assistance. This prompts a final remark: all the

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contrast; cp. chap. 3, pp. 37-8 above) and D.Z. Phillips, 'The Possibilities of Moral Advice', _Analysis_, Dec. 1964 (esp. on the alleged unavoidability of advising rationally otherwise than according to Black's specifications).

[107] Cf. chap. 4, p. 82 _et_. _al_. It has been convenient to conduct this discussion primarily in terms of 'must' in order not to anticipate chap. 6. An indication of how the themes developed there would apply to advice contexts is given p. 179, fn. 59 below.

[108] NA p. viii, quoted above p. 118.

so-called 'species of permission'[109] canvassed by von Wright as interdefinable via the O-operator (i.e. 'must' or 'ought') are connected with the idea of non-interference, and so with practical possibility of a more than purely conventional, normative type. Rights and claims concern subjects letting each other be; an authority's promise of non-interference affords subjects the same consideration. But besides the oddity (not to mention the injustice) of describing the authority as breaking his word, disobeying himself, or depriving his subjects of a right every time he revokes a permission,[110] to deny him the _entitlement_ to revoke permissions (at his own discretion and without _ipso facto_ giving grounds for complaint or censure) is to take away an essential part of the jurisdiction which consitutes him _as_ an authority and enables him to discharge the responsibilities of his office.[111] Yet some such consequence seems intrinsic to all the above methods of turning permissions into _guarantees_, as it were, that the subject will be allowed freedom to act.

This is not to deny that such guarantees can be given, only that it is asking too much of permissions, as such, to carry such a serious commitment. And asking too much means missing the essential in permissions, the negativity which the following chapter attempts to elucidate.

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[109] NA p. 90.

[110] Cf. pp. 115-6 above.

[111] Cf. chap. 4, p. 96 and p. 106 above.

Chapter Six

Permitting and Refraining From Forbidding

The critical work of the last chapter's defence of the view taken in chapter 3 of the relation between the performative and the reportive use of deontic language may now be applied to the interdefinability problem.[1] By this means, the present chapter aims to extend chapter 4's characterization of permitting as an essentially negative concept, which presupposes the concept of prohibition in that permitting is to be understood as refraining from prohibiting, and to make of it an analysis of the illocutionary force definitive of permitting which facilitates comparison with the illocutionary forces of other authority-made speech-acts and provides criteria for assessing such speech-acts from a logical point of view. We may begin by considering what von Wright calls the 'bewildering...role of negation in prescriptive language'[2].

In _Norm and Action_ von Wright defines negation separately for the descriptive and prescriptive interpretation of the formulae of his new system of deontic logic. He accepts for the descriptive interpretation the usual truth-functional view of propositional negation, which means assigning to a proposition as its negation that proposition which is true when it is false, and vice-versa.[3] And since the possibility of authority non-action leaves open a third possibility between the existence of a permission to do A and the existence of a prohibition against doing A,[4] 'Not PA' and 'FA', when read existentially under the descriptive interpretation, are not equivalent. The same applies, mutatis mutandis, to other putative equivalences between negative and positive formulae. In other words, of the two premises which led to our paradox[5], von Wright accepts (B), that a negative formula of the form 'Not ...A' is true if the authority has not acted, and rejects (A), that Not FA ≡ PA, - and thus undoes the deontic square of opposition.

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[1] Cf. chap. 5, p. 117.

[2] NA p. 137.

For his prescriptive interpretation, von Wright requires that the negation of a norm shall be another norm related to it according to the following definition:

> A norm is the negation-norm of another norm if, and only if, the two norms have opposite character and their contents are the internal negations of each other.[6]

That is, a prescriptively-interpreted formula F_1 expresses the negation of the norm expressed by a prescriptively-interpreted formula F_2 if, and only if, F_2 contains the P-operator where F_1 contains the O-operator, or vice-versa, and the act-expression in F_2 is the negation of that in F_1;[7] and similarly with the ordinary language deontic sentences whose constituent elements are symbolized in the formulae. To summarize:

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[3] NA pp. 131-3.

[4] NA pp. 135-41, 154-5

[5] Chap. 5, p. 114 above.

[6] NA p. 140. ('Opposite' here seems to mean simply difference of deontic operator - cp. NA p. 145.)

> A command to do and a permission to forbear are related to one another as negations, and so are a command to forbear and a permission to do.[8]

The problem this definition is intended to solve is two-fold: first, to make sense of

> how the word 'not', when attached to or inserted in sentences used for enunciating prescriptions, affects or changes the meaning of the original sentence.[9]

Second, the definition serves as an affirmative answer to the question

> whether the relationship between the meaning of a norm-formulation with and the meaning of a 'corresponding' norm-formulation without the word 'not' in it is sufficiently like the relation between a proposition and its negation to justify us in speaking about a prescription (norm) and its negation.[10]

It serves this second function by fulfilling the first in a way which satisfies analogues to four out of five requirements von Wright considers essential to propositional negation: (i) the negation of a norm is a norm, (ii) there is one and only one negation of a given norm, (iii) the negation of a negation-norm is the norm originally negated, (iv) a given norm and its negation are mutually exclusive in the sense that they cannot coexist (in the same 'corpus' of prescriptions built up by a specific authority).[11]

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[7] Strictly speaking, the internal negation of it, descriptive of the agent's forbearing from its content; but there is no need for present purposes to bring in von Wright's distinction between the internal and external negations of his df-expressions, which is intended to capture the difference between, respectively, forbearing from A and not doing A (see NA pp 45-6; 64-5).

[8] NA p. 139.

[9] NA p. 136.

[10] NA p. 136.

The only requirement for which von Wright finds he cannot secure a prescriptive analogue by his definition is (v) the joint exhaustiveness whereby one or other of two propositions which negate each other must be true.[12] Yet the property of joint exhaustiveness seems to be precisely the feature which distinguishes the relationship of mutual negation [contradictoriness, which includes requirements (i) - (iv)] from other forms of logical incompatibility such as contrariety. Is such a sacrifice really necessary in order to make sense of the role of the word 'not' in the performative use of deontic language?

It is on von Wright's premises as to the interrelations of his prescriptive and descriptive interpretations. An analogue to the requirement that, of a given proposition and its negation, one or the other be true would, on von Wright's view of the ontological status of norms (in terms of which the principles of the logic of norms are to be justified[13]), require of a norm and its negation that one or the other exist (in a corpus). This fails[14] because it is equivalent to (in fact, as has been seen, it is the very same thing as) requiring the proposition that P Not-A to be the contradictory of the proposition that OA; the failure was indeed predetermined when the putative equivalences which give the square its contradictories were rejected for the descriptive interpretation:

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[11] NA pp. 138-41. The point of the parenthesized qualification is that one authority can permit what another forbids (NA p. 140, referring forward to pp. 147-52); its justification is that within a corpus conflict between prescriptions is 'excluded as being contrary to the nature of a rational will' (NA p. 206), though the possibility of irrational willing is not denied (NA pp. 151-2).

[12] NA p. 138; pp. 154-5.

[13] Cf. chap. 5, pp. 130-1 above.

> [If] a norm and its negation-norm form an exhaustive alternative...we could conclude from the factual non-existence of a norm to the existence of its negation-norm.[15]

And his rejection of the interdefinability of the O- and P- operators had been an earlier consequence of this same approach. For

> It is easily recognized that the problem whether a norm and its negation-norm form an exhaustive disjunction is a generalization of the problem...of the mutual relations of the norm-characters of command and permission.[16]

Since an analogue to such an elementary logical relationship as negation cannot be secured by the ontological foundations of von Wright's logic of norms, let us turn to a different approach, one which does not assume that 'joint exhaustiveness' between prescriptions must be so closely reflected in the logical features of a pair of corresponding reportive deontic utterances.

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[14] NA p. 155: 'A norm and its negation-norm cannot both exist, i.e. coexist within a corpus. But they can both be absent from a corpus.'

[15] NA p. 154.

[16] Ibid; cf. NA p. 155.

The view that a command and a prohibition of the same act (instead of a permission to forbear from the act) are related to one another as (in some sense) contradictories is widely held. Geach formulates the point as follows:

> The contradictory of an imperative is itself an imperative... In answer to a request for orders, 'Am I to do P?', only two answers are possible - 'do P' and 'do not do P', which are contradictories. No other order is a direct answer to the question; and to say 'You may either do P or not' would not be an answer but a refusal to answer - I was asked for an order and I refuse to give any.[17]

It is true that, if deontic language is to be used *for ordering* (regardless of whether it is in answer to a request for an order on a certain subject or whether the sentence in question is in the imperative mood), this pair of orders jointly exhausts the possibilities with respect to an act A, just as affirming and denying jointly exhaust the possibilities for asserting with respect to a proposition p. But this way of putting the point shows that we have here an identity instead of an analogy between concepts of negation. The reason why the orders exhaust the possibilities is simply that their propositional contents (what they require the hearer to make true) are each other's negation; a prohibition of A contradicts a command to do A because the prohibition is nothing but a command to do Not-A, just as to deny p is simply to assert that not p.[18] Elsewhere Geach says:

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[17] P.T. Geach, 'Imperative and Deontic Logic', *Analysis*, Jan. 1958, p. 49, referring to R.M. Hare, *The Language of Morals*, *op. cit.*, p. 23. Miss Anscombe, *Intention*, *op. cit.*, §31, takes the same view. Mention should also be made of those who hold that a command to do A may be negated in two ways, of which a 'countermand', or prohibition, of A is one. Thus Rescher, even though he finds von Wright's permission for Not-A perhaps the most natural way of understanding 'the "negation" of a command' (*Logic of Commands*, *op. cit.*, pp. 104-5), and Alf Ross, 'Imperatives and Logic', *Phil. of Science*, vol. 11, 1944, pp. 38-9, who favours both of von Wright's rejected candidates: the prohibition and a denial of the proposition that A is enjoined (cf. NA pp. 137-9).

> The contradictory of a command is itself a command, one that would be obeyed if and only if the original command were not obeyed.[19]

Since obeying or fulfilling a command is making true the proposition which forms its content (or, here, which would do so if it were actually given[20]), it is evident that the only form of negation involved is ordinary propositional negation, considered as it enters into the speech-act of commanding instead of that of asserting.

It follows that a specifically 'prescriptive' form of negation would involve 'negating' a command's prescriptive illocutionary force (a) as well as, or (b) instead of, its propositional content. Those who assign the position of the negation of a command to do A to a permission for Not-A may be interpreted as choosing (a), while (b) could be connected with the view that a command can be negated by nullifying, cancelling, or revoking it[21]. If such an application of the concept of negation is intelligible, it will not be analogous to ordinary propositional negation in the way von Wright, following the ill-balanced contrast exposed in chapter 5, requires of it, but rather to negating the illocutionary force of an assertion; that is, 'prescriptive' negation, if it exists, will be a special case of illocutionary negation. Such, at any rate, is the notion of prescriptive negation espoused by R.M. Hare, whose attempt to make sense of it in terms of neustic negation is as follows:

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[18] Cp. NA pp. 83-4: 'That which ought to be done is that which must not be left undone, and vice versa... Every positive norm of "ought"-character is identical with a negative norm of "must not"-character, and conversely.'

[19] P.T. Geach, 'Imperative Inference', op. cit., p. 38.

[20] Normally one would not speak of obeying or disobeying except with reference to an actual ruling utterance (cf. chap. 3, p. 55 above).

> The sign of negation, 'not', is normally part of the phrastic of both indicatives and imperatives; thus, instead of 'You are not going to shut the door' we should write 'Your not shutting the door in the immediate future, yes'; and instead of 'Do not shut the door', we should write 'Your not shutting the door in the immediate future, please'. Modal sentences containing the word 'may' could, it seems, be represented by negating the neustic; thus 'You may shut the door' (permissive) might be written 'I don't tell you not to shut the door' and this in turn might be rendered 'Your not shutting the door in the immediate future, not-please'; and similarly, the sentence 'You may be going to shut the door' might be rendered 'Idon't say you aren't going to shut the door' or 'Your not shutting the door in the immediate future, not-yes'.[22]

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[21] Thus Thomas Storer, 'The Logic of Value Imperatives', Phil. of Science, vol. 13, 1946, p. 33; he writes 'Not (do A)' to distinguish the 'cancellation' or 'nullifying' way of negating 'Do A' from negating it by the prohibition 'Do not do A'.

[22] The Language of Morals, op. cit., pp.20-21; Storer, loc. cit., p.33, fn. 7 draws a similar comparison.

To assess this passage we must first consider briefly the notion of a neustic, which is what is to be negated.

A neustic is defined as that part or feature of a sentence, by using which the speaker indicates how he means to 'nod' the other part, the phrastic, i.e. whether he is to be understood as using it to describe what is going to be (or already is) the case, or as using it to describe what the hearer is to make the case, and so on.[23] Similarly, Searle distinguishes between two parts, or (since they are not necessarily separate) features, of a sentence which he calls (a) the proposition-indicating element, by means of which a speaker conveys the propositional content of his utterance, and (b) the function-indicating device, by means of which the speaker conveys the illocutionary force of his utterance - such devices include word order, stress, intonation, punctuation, verb mood, and what may be called explicit performative prefixes like 'I promise' or 'You are hereby permitted'.[24]

One relevant difference between the two distinctions is that Hare's imperative and indicative neustics, considered as function-indicating devices, are of extreme generality, corresponding to such unspecific prefixes as 'I tell you to' and 'I tell you that', whereas a function-indicating device can determine an utterance's illocutionary force to finer degrees of specificity.[25] A more important difference is this: Searle allows that often in actual speech situations the context will make it clear what the illocutionary force of the utterance is without its being necessary to invoke an appropriate function-indicating device,[26] whereas the phrastic-neustic analysis is supposed to pick out, as what is 'conveyed by' the neustic, an 'element of meaning' present in all sentences whatsoever;[27] alternatively, the distinction may be put by saying that every sentence has, besides a 'descriptive content' fixed by convention and the context of utterance, a 'mood',[28] and so 'expresses' a command or a statement[29]. But there are reasons for doubting that this universality can be sustained *together* with the view that the neustic is an abstractable part or feature of the *sentence* uttered rather than of the act of uttering it.

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[23] R.M. Hare, 'Imperative Sentences', op. cit., pp. 27-30, Language of Morals, loc. cit., pp. 17-18.

[24] 'What Is A Speech-Act', op. cit., p. 226.

[25] Although, as already noted (chap. 3, p. 60, fn. 21 above), in The Language of Morals, p. 17, Hare may allow for the possibility of neustics other than the two he concentrates on.

Originally, Hare said that the neustic was what was primarily responsible for 'the *saying* (the commanding, stating, etc.) which a sentence does'[30]; to which it is natural to reply that only speakers can perform actions - sentences have no such powers[31]. This is not just a quibble, forconsider a simple future indicative sentence like 'The patient will go down to the operating theatre', of which Geach remarks:

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[26] 'What Is A Speech-Act?', *op. cit.*, p. 227.

[27] *The Language of Morals*, loc. cit., pp. 17-18.

[28] Cf. *Ibid*, pp. 188-9 and A.J. Kenny, 'Practical Inference', *Analysis*, Jan. 1966, pp. 67-9.

[29] *The Language of Morals*, *op. cit.*, p. 4.

[30] 'Imperative Sentences', *op. cit.*, p. 28; cp. *The Language of Morals*, *op. cit.*, pp. 18-19.

[31] Cf. Searle, 'What Is A Speech-Act?', *op. cit.*, p. 226.

> The same utterance of [it]...may be at once an expression of the surgeon's intention, an order to the nurse, and a piece of information to the patient; but it is not on that account an ambiguous utterance, like a two-edged remark that means different things to different hearers.[32]

Hare might hesitate to admit that a single sentence could have both his neustics, yet an utterance such as this may well be deliberately and plainly meant as a three-in-one speech-act, not just taken differently by the three parties. That shows, first, that the indication of function or force (the actual 'saying') is something for which responsibility is to be assigned to the speaker himself, not to an abstractable component of the sentence he utters, which need not - and in the present example does not seem to - contain any identifiable devices[33] adding to the (propositional) meaning of what Hare would call its phrastic; and second, that force or function is something which attaches to the act of uttering a sentence and should be distinguished from the meaning of any linguistic device used to convey the speaker's communication intention[34]. After all, in the case of normative action, one important indicator of illocutionary force, which it would surely be artificial to represent as a feature of the sentence uttered, is the fact that the words issue from the mouth of an authority - this helps to explain the rather common use for commanding of future tense indicatives.

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[32] 'Imperative and Deontic Logic', op. cit., p. 51.

[33] Such as the tone and manner of delivery, which Bernard Mayo, Ethics and the Moral Life, op. cit., p. 150 uses as a means able to distinguish the different forces that attach to the sentence 'The message will be passed tonight' when it is uttered three times in succession, first as a prediction by a junior officer reporting to his commandant, second by the latter - sternly and emphatically - as a command, and third, hastily, as a promise by his subordinate in reply.

[34] Cf. chap. 5, pp. 135 and 138ff above, and cp. Strawson, 'Intention and Convention in Speech Acts', op. cit., esp. pp. 442-5.

It is likely, I think, that at the root of von Wright's perplexing notion of prescription-expressing and the ill-balanced analogy to which it leads there lies an attempt to incorporate the illocutionary force characteristic of prescriptions in the meaning of any sentence used for prescribing. The O-operator, prescriptively interpreted, is Hare's 'please', while the P-operator, although ultimately it remains undefined in Norm and Action, corresponds to Hare's 'not-please ...not...'. The moral of chapter 5 applies to neustics too: either (a) they are abstractable components of the sentence uttered, with expressive powers contributing to the meaning of the whole, in which case it is not necessary that every sentence available for commanding/permitting should contain the same neustic (function-indicating device), or that it should contain any neustic at all;[35] or (b) they are artificial ways of representing the force of utterances of a certain kind, in which case they are not parts of sentences but specify the type of illocutionary act performed in and as the immediate aim of the utterances.

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[35] In view of Hare's terminology, it is worth pointing out that what is grammatically the imperative mood is not invariably associated even with practical discourse as such, but can also be used e.g. to formulate the antecedents of conditional assertions: 'Give him an inch, and he'll take a mile'. See further Otto Jespersen, The Philosophy of Grammar (London: George Allen & Unwin 1924) pp. 313-15).

On alternative (b), a genuinely negated neustic like 'not-please' would seem to represent an utterance's lack of a certain illocutionary force - to exclude a certain way of understanding the aim of the utterance from the speaker's communication-intention. It would symbolize, as it were, his not doing some commanding, leaving the utterance without any illocutionary force at all, without even an implicit indication of what speech-act the words were to be taken as used for - and words not used for any speech-act are merely uttered, not used to any intelligible purpose. Neustic negation would, therefore, be strictly unintelligible.

That leaves alternative (a). Here, unless there is reason to suppose that the word 'not' has a radically different meaning inside performative prefixes, we may conclude that it operates on the function-indicating device of the original sentence to negate it in the usual way. Now performative prefixes like 'I forbid' and 'I declare that' are function-indicating devices with which a speaker conveys the intended force of his utterance by explicitly announcing the type of speech-act he means to be performing.[36] Whereas inexplicit function-indicating devices like the imperative mood cannot be brought within the scope of a negation sign, the speech-act verbs of a performative prefix can be negated in the ordinary way to form, with the word 'I', etc., a new function-indicating device, one by using which the speaker announces that his intention is not to perform the type of speech-act for which the negated verb stands. Negation here would seem to be a strictly propositional operation, relating as it does the propositions (that I command p and that I do not) which are expressed to indicate the type of speech-act the speaker means to be performing or not to be performing.[37] Since, therefore, the negated proposition enters into the utterance as a means of conveying its illocutionary force and propositional content, the utterance is left with at least the minimal illocutionary force of an announcement of intention not to do something. It is this intentional element that lies behind our understanding of Hare's ordinary language examples[38]; for we read them in the light of the fact that to say that one means not to be commanding is to say that one means to be refraining from commanding.

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[36] Cf. P.F. Strawson, 'Intention and Convention in Speech Acts', op. cit., p. 451.

To do this, one has of course to name the speech-act one is refraining from, which explains why this mode of speaking depends on the use of an explicit performative prefix. Given that prefix, however, such utterances are just substantial enough in their expressive powers to count as speech-acts in their own right; the same applies to any other overt refraining utterance (as we may call this kind of speech-act), that is, to any utterance the force of which is determined by the speaker's communication of an intention to refrain from a certain type of speech-act - it does not matter whether the speaker uses a negated prefix to convey that intention (as opposed, for example, to 'I permit' or a deontic auxiliary), nor does he have to use any linguistic device for the purpose at all, so long as the intention is what Strawson calls a 'wholly overt or essentially avowable' one[39]. Thus if a Cabinet Minister, reviewing the nation's finances at a press conference, remarks 'I'm not saying that income tax is (not) going to be raised', then the announcement, as it were, of his abstention is a speech-act in its own right. Significantly, however, it is not assessable for truth-value. His words will be taken by any hearer with whom he secures uptake as being used to refrain from the speech-act of saying that income tax is (not) going to be raised.[40] And this is analogous to what is done by the act of communicating an intention not to forbid an action by one's utterance.

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[37] Cp. chap. 5, pp. 139-40 above.

[38] See quotation p. 164 above.

To do that is to do more than remain silent, even deliberately - though, of course, as was seen in chapter 4[41], deliberate silence in suitable circumstances can be, or be taken to be, a way of communicating an intention of refraining from prohibition of a certain act. It may seem that the same aim could have been achieved without saying or communicating anything at all. And so, in a way, it could - but the abstention would not then have been a permission. The fulfilment of the intention to refrain does not constitute a permission unless it takes place through a linguistic act (in the broadest sense) in which the permitter attempts to secure recognition of the fact that just this intention is what he means to be fulfilling.[42] So what defines the action of permitting is the intention of being *understood* as refraining from the prohibition of something. This is what prevents a permission-giver's successful abstention from prohibition degenerating into something that is not a ruling at all, a mere case of inactivity. For the same reason a speaker cannot do *less* than refrain overtly both from ordering A and from ordering Not-A if his utterance is to have the force of a *ruling* on A. (This justifies the subcontrariety of 'PA' and 'P Not-A' in the interpretation proposed earlier.[43]) A speaker can, of course, do *more* than refrain from some specific type of speech-act, and in such cases 'overt refraining utterance' will be only part of the description (will refer to only one of the forces) of a more or less complex illocutionary act; such, for example, is the permitting aspect of commmanding, as will be seen below.

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[39] 'Intention and Convention In Speech Acts', op. cit., p. 456. Cp. ibid p. 454.

[40] Pace Hare (passage quoted p. 164 above), he would produce a rather different effect if he said 'It may happen', which is assessable for truth-value. The Ministerial 'No comment' is different again: it is a refusal to comment which presupposes a request to do so in a way that merely refraining (overtly) from commenting on an issue does not.

[41] P. 101ff. above.

To return now to the problem of negation. The interesting phenomenon of overt refraining utterances enables us to put beside Geach's pair of exhaustive alternatives for ordering, another pair of speech-acts, which together exhaust the possibilities for making a ruling (prescribing in von Wright's generic sense): either to order whatever act, A, is under consideration or overtly to refrain from doing so, thereby permitting Not-A. The idea that a command can be negated by a cancellation which simply deprives an act of its deontic status without leaving any positive result[44] would require a third pair of alternatives, to exhaust the possibilities for something more general still, such as the performative use of deontic language as such - but commanding A and withdrawing that command (making a ruling and undoing a ruling) hardly form a comparable disjunctive pair at all, since nullifying or cancellation is a higher order action which has reference to a particular speech-act which has previously occurred. Natural enough though it is to describe many cases of permitting as a matter of freeing subjects from normative obstacles, there is no a priori reason why an act should have to be prohibited before it can be permitted, and so it would be best to analyze the notion of freeing (which chapter 4 used as well as the idea of refraining[45]) as a cancellation combined with the authority's refraining from introducing a new obstacle in place of the one he has removed. So two candidates alone remain.

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[42] Cf. chap. 5, p. 135 above.

[43] Chap. 5, p. 112 above; cf. chap. 3, p. 54 and chap. 4, p. 102.

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[44] Cf. p. 164 above. That cancellation can simply nullify, and no more, is a view upheld (though without considering it a form of negation) by von Wright (NA p. 191) and Rescher (Logic of Commands, op. cit., p. 111).

[45] P. 98ff. above.

The need is not so much to choose between these two as to understand their respective differences. It is undoubtedly commanding and prohibiting A which are most analogous to the affirming and denying of p, just because the propositional contents of each pair are contradictories in the strict sense of being each other's (propositional) negation. Commanding A and permitting Not-A (prohibiting something and permitting it), on the other hand, are opposed to one another somewhat as are affirming that p and overtly refraining from doing so. 'Illocutionary negation' would be a misleading way of describing such cases of opposed illocutionary forces, since it has been seen that negation need not be involved in the refraining act at all, and if it is, its operating on the function-indicating device rather than on the proposition-indicating element does not prevent it being of the standard variety[46].

Such opposition between illocutionary forces may seem not to be of much significance in the assertoric realm - perhaps because there is seldom much point, at the generic level of assertion as such, in announcing an intention of refraining from aiming at truth on behalf of the proposition one is expressing; where, however, more specific types of speech-act are in question, locutions like 'This is not meant as a concession on my part' are quite common. But the conditions of pointfulness for permission-giving described in chapter 4[47] are precisely such as to give point to refraining from prohibiting some action, namely that the subject wants to do the action and needs to have it made clear to him and put on record that there are not any normative obstacles obstructing him.

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[46] Pp. 169-70 above.

[47] Cf. esp. pp. 108-9.

If, then, the interdefinability question is given a somewhat different sense than von Wright gave it[48], through being referred to the nature of the opposition between the speech-acts of permitting and forbidding rather than to von Wright's 'prescription-norms', it would seem that, although Geach's account of contradictoriness is to be preferred to von Wright's, there is a sense in which permitting is not an 'independent normative concept'[49] but may be defined in terms of prohibition, as what a man does when he overtly refrains from it. (This links up with the views advanced in chapter 4 about its being a secondary or 'negative' notion; it is true that prohibiting may be defined as overtly refraining from permitting, but that's just a reflection of the fact that to refrain from refraining from A is to do A itself.[50])

These results may now be applied to the square of opposition - or rather, to the arrangement of its positive elements, considered as a picture of what must, must not, and can be the case as the result of an utterance with the force of a ruling establishing a deontic status for some designated act[51]. First, the impossibility of permitting and prohibiting the same act on the same occasion.[52] To succeed in this, a speaker would need implicitly or explicitly to indicate that his intention was both to forbid (give a reason against) a certain action and to refrain from doing so. (The assertoric analogue to this is equally unintelligible.) Such an intention, like the decision it implies, has not only a contradictory 'content', but (unlike wanting both A and Not-A to be done) itself involves a contradiction in its description. There is therefore no speech-act that the speaker can be (intending to be) doing in his utterance. The justification for the claim that opposed illocutionary forces cannot be combined in the same speech-act thus reduces to the fact that 'intending to do A' entails 'not intending to refrain from A'. This consideration as to the minimal consistency required for any utterance to convey a coherent enough illocutionary force to count as a ruling making some deontic proposition true, together with the fact that prohibiting an act and overtly refraining from doing so between them exhaust the possibilities for what a speaker can do when he makes a ruling on some act, A, shows that any ruling as to the deontic status of A must bring about the truth of at least one and at most one of the pair 'PA' and 'FA', and likewise that any ruling as to Not-A must bring about the truth of at least one and at most one member of the pair 'F Not-A' ('OA') and 'P Not-A'.

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[48] Cf. chap. 5, p. 117, p. 141, and this chapter, pp. 157-61 above.

[49] Chap. 5, p. 117 above.

[50] Hence the use of such phrases as 'I do/will not permit' to give an utterance prohibitive force. Cp. NA p. 155.

[51] Cf. chap. 5, pp. 111-2 above.

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[52] Von Wright also affirms this impossibility, but in the much stronger form: 'one and the same authority cannot both permit and prohibit the same act to the same agent on the same occasion' for doing the action ruled upon (NA 197). This presupposes the notion of a corpus, by definition free of internal inconsistency or irrationality (cf. p. 160 fn. 11 above).

It does not, however, suffice to vindicate the square's contrariety and subalternation relationships, that is, to eliminate the combination 'OA . FA'. All the previous argument makes clear is that commanding without permitting would, as was claimed in chapter one, entail forbidding the action, since any ruling on A must either permit or forbid it. What lies behind the entailment '(OA . Not PA) → (OA . FA)' is the fact that commanding, like any other ruling, involves an overt display of the authority's intentions as to what the deontic status of A is to be, and this makes any relevant *omission* accompanying the speech-act an overt abstention or refraining: thus one who commands A at the same time permits it if he does not *explicitly* forbid it then and there, just as one who permits A also permits Not-A if he omits to make A obligatory[53]. So it remains to defend chapter 1's argument[54] that an authority intent on commanding something *must* refrain from forbidding it if his speech-act is not to stultify its own aim and fail to establish an obligation. Only then will it be legitimate to conclude that any ruling speech-act must establish one and only one of the trio of conjunctions: (OA . PA) v (PA . P Not-A) v (P Not-A . FA)[55].

The success of such a project must depend from the start on considerations about coherence in a speaker's communication intentions similar to those which explained the impossibility of permitting and prohibiting the same act on the same occasion, but specific this time to the illocutionary act of commanding. It would be premature to anticipate that the relation of propositional negation, which makes a command contradict a prohibition of the same act, will have exactly the same effect on an imperatival utterance it renders self-contradictory as on an assertive one with the same content. Indeed, one reason for expecting the analogies with the assertoric realm to fail at this point is that the necessarily true assertion of 'p or not p' is no different, qua assertion, from any other, even if it is a trivial one, whereas a necessarily fulfilled command of that form is indistinguishable from a permission with the same content, i.e. from an act of overtly refraining from commanding[56]. If it is true, as Hare claims[57], that 'Either do A or don't do A' is 'analytic' or 'without content' in a sense comparable to 'It is either raining or not raining', it is because both express necessarily true propositions, so that the utterance of the former can no more tell the hearer to do one thing rather than another, than the utterance of the latter can tell him anything definite about the weather. This makes the indicative sentence (whatever its other functions) useless for the purpose of a weather report which does aim to tell the hearer something definite - one way or the other - about a particular matter of fact. On the other hand, to give an utterance of the form 'Either do A or don't' the force of an order telling the hearer what to do, is to intervene upon the deontic situation professing an intention of establishing a deontic status for A by saying what it is to be, and at the same time to present as completely defining the standard one intends to lay down for subjects' behaviour a proposition they cannot fail to make true.[58] The necessity of this proposition does not trivialize or deprive of content the speech-act itself, only the demands made of the subject as the result of its performance. By not telling him to do one thing rather than another when laying down what is to be the deontic case, the authority brings it about that he has overtly refrained both from ordering A and from ordering Not-A; in this way, he makes it the case that he has permitted both.[59] Exactly the same speech-act and result could be obtained from the sentence 'Do A, if you want', which is certainly not 'analytic' in a comparable sense though its meaning, for reasons already explained, makes it just as suitable an instrument for overtly refraining from imposing any restriction on freedom of choice[60]. Hence, although it is correct to say that tautologous commands of disjunctive form are

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[53] A recurrent theme of Part I - cf. chap. 1, pp. 8-11, chap. 3, pp. 48 - end.

[54] Pp. 8-11 above.

[55] Cf. chap. 3, pp. 48-9 above.

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[56] Cf. chap. 3, pp. 70-1 above.

[57] The Language of Morals, op. cit.,p. 24, p. 41.

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[58] Cf. chap. 3, pp. 46-7; chap. 4, pp. 76-7 above.

[59] If meant as advice, as Hare describes it (The Language of Morals, op. cit., p. 24), the utterance may have the force of an abstention from giving an opinion either way, and so of a suggestion that the relevant interests of the hearer will not be affected however he decides; alternatively, it is a way of telling the hearer to stop hesitating and make up his mind. Both could be brought under the heading 'advice to choose either way'.

[60] Cf. chap. 4, p. 105ff. above.

'commands which do not demand anything'[61], it does not follow that they are 'logically futile'[62] (they are not equivalent to 'Do anything'), and it is misleading to say that permissions of the same tautologously disjunctive form are 'permissions which do not permit anything in particular'[63]. For they permit that most important liberty, a free choice - a point which is reflected in the fact that they are equivalent to conjunctions of separate permissions.[64]

The explanation of this disanalogy between assertions and prescriptions with tautologous disjunctive contents is to be found in the different relation in which the truth of propositions stands to the fulfilment of the aims of these speech-acts. A proposition and its negation jointly exhaust the possibilities as to what can be or become true and thus set direct logical limits for the realization of the theoretical aim of any assertions of which they form the content. In ordering, however, the propositional content is expressed as what the speaker aims to give the subject a special sort of reason for making true. The relation between a proposition and its negation certainly restricts the ways in which the authority's further practical aims can be secured by conforming action[65], but its impact on the immediate purpose of command-utterances is not thereby determined. That is, if the attempt to combine a command with a prohibition for the same action is self-defeating, it cannot be due simply to the fact that the two exhaust the obedience-possibilities. Geach's suggestion of this as the reason why one should not wish to contradict oneself in order-giving is based on a view that

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[61] NA pp. 153-4.

[62] Thus Hector Neri Castaneda, 'Imperatives and Deontic Logic', Analysis, Dec. 1958, p. 47.

[63] NA pp. 153-4.

[64] Cf. chap. 3, p. 69ff. above.

[65] Depending, of course, on what his aims are like, and how far they tolerate exceptions in cases of conflict (See B.A.O. Williams, 'Consistency and Realism', op. cit., pp. 14-19).

> we wish the commands we give to be obeyed, and if they are inconsistent one or other of them is not going to be obeyed. We seek to avoid inconsistency precisely because, and precisely where, our discourse does relate to the world outside our discourse.[66]

But there are two main ways in which commands relate to the world: primarily, as acts giving (by constituting) reasons to the subjects addressed for making propositions true in their behaviour, and only secondarily as a means to the authority's furtherance of his aims as to subjects' behaviour.[67] The second is as essential as the first to the speech-practice of giving orders within authority-subject relationships,[68] but it does not follow that commands can be defined simply in terms of the second relation: as a means, or as a means of a special sort, for influencing behaviour. It will therefore be convenient to initiate consideration of the communication intentions specific to commanding[69] by criticizing two versions of the view that commands may be accounted for in terms of an intention to secure a certain pattern of behaviour.

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[66] 'Imperative Inference', op. cit., p. 37; cf. p. 163 above.

[67] Cf. chap. 4, esp. pp. 73-7, p. 83, pp. 91-7 above.

[68] Cf. chap. 4, pp. 76-7, p. 105ff. above.

[69] The task set on pp. 177-8 above.

Von Wright, for example, holds that 'the will-theory of norms' is 'substantially correct' as 'a theory of the ontological status of prescriptions generally', i.e. that commands and prohibitions should be regarded as

> the expressions or manifestations of the will of some norm-authority with regard to the conduct of some norm-subject(s) ... a will to make do or forbear.[70]

By this he means that they 'manifest efforts to make people do or forbear things'[71], and hence are normally (though not invariably) to be explained by the authority's wanting or being anxious that the subject should (be made to) do something[72]. The effort is made by the threat (followed up by the enforcement) of sanctions.[73] Von Wright accepts the consequence that 'blackmail is a species of commanding'.[74] Even though usually a norm-authority is

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[70] NA p. 121. [71] NA p. 149.

[72] NA p. 119. It may be noted (a) that von Wright denies that this type of want entails wanting that the thing in question should happen (for, he says, the authority might just want to put the subject in motion, without being interested in the result of the act), and (b) that this account is not supposed to cover cases where the giver of the order is himself under orders to give it (p. 118). These qualifications cover him from immediate criticism on the score that the orders given by civil servants and others may well conflict with their own personal inclinations. Cf. D.R. Bell, 'Imperatives and the Will', op. cit., pp. 141-2; B.A.O. Williams, 'Consistency and Realism', op. cit., p. 10.

[73] NA p. 149.

[74] NA p. 128.

'either acting in the capacity of holder of some office' (which is 'partly at least, a normative notion') or 'speaking in the name of a group of men'[75], the ground of the ability to command is still the superior strength thereby acquired.[76]

But although it may be legitimate to describe a blackmailer as 'ordering' (not 'commanding') his victim to pay up,[77] the sort of reason for action given by a threat to visit another with evil[78] is very different from that given by an authority's command.[79] In effect, what the will-theory does is to define the original sense of 'oblige' (now hardly used outside the law), in which it means 'to put someone under obligation', as 'attempting to oblige' in the derivative but now dominant sense of 'oblige', meaning to constrain, especially by moral or legal influence, and hence to force or compel in general.[80] What is important here is not, of course, the words as such but the fact that, as Hart says:

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[75] NA p. 76.

[76] NA p. 128.

[77] Cf. Introd., pp. 4-6 above; H.L.A. Hart, The Concept of Law, op. cit., pp. 19-20, says that, while 'he ordered' is applicable to such situations, 'he gave an order' is not, and he is emphatic that a command need not involve a latent threat of harm for disobedience. He further agrees with Mayo (Ethics and the Moral Life, op. cit., pp. 148-9) that 'command' is tied to the exercise of authority in a way that 'order' is not.

[78] NA p. 127.

[79] Cf. above chap. 4, passim on reasons, chap. 5, p. 121 fn. 27 on enforcement and sanctions.

[80] O.E.D. s.v. 'oblige'.

> Without the notion of a system of rules resting on...a complex social practice, the difference between 'obliging' and 'imposing or creating an obligation' cannot be made clear.[81]

A different proposal, by D.R. Bell, for analyzing commands as 'essentially a way of bringing about action on the part of another' - or rather, attempting to do so[82] - takes the following form:

> Command is characterised by the intention to secure an effect by the manifestation of such an intention in a conventional form of language of which an essential part is a description of or reference to the agent and act commanded.[83]

The intention in question is 'an abnormal form of intention, ...one in which the intention is that *someone else* should do something'[84]. He allows that the order which is the conventional manifestation of the intention may be given insincerely, 'not with the intention that it shall be carried out, but rather with the intention that something shall happen in the course of an attempt to obey it'.[85]

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[81] *The Concept of Law*, *op. cit.*, p. 98; cf. *ibid* p. 95-9 for a general criticism of the will-theory as it applies to the field of law. [Von Wright's version is considered in greater detail in Pt. III, Chap. 8, where it is argued that it breaks down over permission.]

[82] 'Imperatives and the Will', *op. cit.*, p. 138.

[83] *Ibid* p. 146.

[84] *Ibid* p. 142, my italics but his emphasis.

[85] *Ibid* p. 143; cp. Herbert Morris, 'Imperatives and Orders', *Theoria* 1960:3, p. 187: 'There has probably been many a movie in which the villainous sergeant who is "out to get" the hero-private orders the private to do something, intending, not that he do it, but that he disobey, so that penalties can be imposed.' (The phenomenon of counter-suggestibility is rather different.)

Even so it may be objected, first that the role assigned to the speaker's intention is already filled by the obligation-creating procedures of the authority-subject relationship, and second that the speaker's intention could not fill this role anyway.

As to the first point: since the speaker is in a position of authority he has access to conventional procedures for laying down standards for his subjects' behaviour, and the question of whether he sincerely intends to bring about the response which it is the function of these procedures to produce is irrelevant to the issue of his success in invoking them. Correspondingly, the procedures can function as a means by which certain responses are brought about without the recognition of such intentions playing any part in the subjects' acceptance of an order as a reason for action. Indeed, part of the point of the procedures is precisely to by-pass such personal factors by creating an artificial kind of spur to action.[86]

Secondly, why should anyone think that the 'revelation'[87] of his personal intentions might be effective in getting the intentions fulfilled? Only on occasion could this be a reasonable supposition, making it worth trying to impose one's will on others by voicing decisions taken, as it were, on their behalf or by communicating an intention of inducing them to take some action?[88] Bell, quite rightly, explains the connection between command and obedience in terms of the hearer's acceptance of the speaker's authority and of the latter's right to initiate action on other people's part.[89] But this is surely tantamount to agreeing that the speaker's having, and the hearer's acknowledging, the 'abnormal intention' is only a secondary factor in the giving and understanding of orders; in short, that

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[86] Cf. chap. 4, p. 94-7 above.

[87] D.R. Bell, 'Imperatives and the Will', op. cit., p. 146, contrasted with a report (p. 143).

[88] Cf. H.P. Grice, 'Meaning', Phil. Rev., July 1957, p. 384-5.

> to submit to authority (as opposed to being subjected to power) is not to be subject to an alien will.[90]

In fact, to define ordering _just_ in terms of attempting to get something done is like explaining assertion (as opposed to informing) as essentially involving the attempt to induce one's hearer to believe something,[91] which is hardly true of a schoolboy telling his teacher what he knows about a certain battle. The error may be one of omission rather than of commission - omission of the _way_ the speaker attempts to produce these effects, if it is true that an order is, at least standardly, an attempt to influence conduct.[92] To omit the _sort_ of means for influencing conduct which the speech-practice of ordering makes available to authorities is to omit not only its conventionality, but thereby also the identification of it as a (particular kind of) reason for acting, and so to omit its rationality. All authorities, whatever their further intentions, depend on the reason-giving function of their orders to make them a means for influencing conduct and thereby to make intelligible the notions of obedience or disobedience. Hence the first aim of any command-giver must be to convey an intention that his utterance should constitute a reason for action, that it should be considered as imposing an obligation; and this is neither the manifestation of an intention that someone else shall do something nor the expression of a will to make him do it.

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[89] 'Imperatives and the Will', _loc. cit._, p. 142, quoted chap. 4, p. 93 above; he adds that it is this right which explains the 'abnormal form of intention'.

[90] Peter Winch, 'Authority', _op.cit._, p. 229.

[91] This is, in fact, done in both cases by Searle, 'What Is A Speech-Act?', _op. cit._, p. 239.

[92] But cp. Strawson, 'Intention and Convention In Speech Acts', _op. cit._, p. 455-6 on orders as intermediate between types of illocutionary act which do and types which do not (the purely conventional ones like the rulings of an umpire) essentially involve in their analysis 'reference to an intention to secure a definite response in an audience (over and above the securing of uptake)'.

The relation of a command to a prohibition of the same content is thus *primarily* that of reasons for and against doing the same action. That is why a pair of contradictory commands with different sources can both succeed in the reason-giving function which is their immediate practical aim, even though both can't secure obedience. Though one must turn out a failure in its further aim if (though only if) they each involved an attempt to secure conforming action, neither is criticizable *qua* speech-act - by contrast with a comparable pair of assertions, one of which it can be known *a priori* must be at fault in that it has failed in the aim (which it necessarily professed) of expressing a true proposition[93]. There can well be actions which one has reason to perform but also reason not to perform; incompatible commands are one source of conflicts of obligation[94]. So the relation between a proposition and its negation can affect the fulfilment of a speaker's immediate purpose only in the case where both enter into a single utterance - a command with a contradictory content.

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[93] Cf. B.A.O. Williams, 'Consistency and Realism', *op. cit.*

Here,however, we find the converse of the disanalogy with assertions.[95] A proposition and its negation exhaust the possibilities as to what can be or become true in a certain domain and thus make it impossible for both an affirmation and a denial of the same proposition to succeed in their theoretical aim of attaining truth. It does not follow from this (even if it is true) that it is impossible to succeed in asserting a contradiction of the form 'p and not p', or that to affirm p a speaker must refrain from denying it. But the practical speech-act of commanding has, as has been emphasized, a different relation to the truth-value of its propositional content. To present a proposition of this form as defining the standard the authority intends to lay down for his subjects' behaviour[96] would mean conveying an intention of giving them a reason to act a contradiction. But it is a consequence of the self-sufficiency which characterizes enjoining's fulfilment of its reason-giving function[97] that if such an utterance succeeded as a command, it would actually accomplish the feat of putting subjects in the position of having a (single) reason for and against the same action. This would be a reason which was at one and the same time a reason for acting and a reason for refraining, which is not at all the same thing as a conflict of obligations. But if, as seems plausible, there can be no such thing, the compound intention of commanding and forbidding the same propositional content cannot be fulfilled. An authority's inconsistencies must involve different rulings, whatever the marks by which their difference is distinguished in practice.

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[94] Cf. chap. 5, p. 143ff.

[95] Cp. p. 180 above.

[96] Cp. p. 179 above.

This justifies the claim that no ruling speech-act can bring about the truth of more than one of the contraries 'OA' and 'FA' if the utterance is not to stultify its aim of establishing an obligation (giving a reason for action), and so fail to constitute a ruling on A at all.[98] Nor is this an isolated phenomenon. Similar considerations suggest themselves for many of the speech-acts listed by Austin alongside ordering and commanding in his table of exercitives[99]. Austin's description of exercitives as, for example, 'the giving of a decision in favour of or against a certain course of action'[100] gives the clue. Because it is impossible that both A and Not-A should be performed, it is impossible to decide that they are both to be done. A decision described as 'a decision that both A be done and Not-A be done' has not only a contradictory 'content' - by being simultaneously for and against the same thing it is itself a contradiction in terms, unlike the description 'wanting both that A be done and Not-A be done'. The same will apply to any speech-act the illocutionary force of which involves in its definition such a decision or the intention formed by it, as with voting or vetoing. Whereas recommending is simply speaking in favour of something, voting for a course of action or vetoing it is actually to promote or hinder its realization. Ordering occupies a position halfway: unlike a recommendation an order _is_ a reason for or against. But unlike a vote or a veto, it does not (help) give effect to a decision in favour of or against a certain form of action, and so it may seem that the contradiction lies solely in what is said, as with a self-contradictory recommendation or assertion, not in the description of what is _done_ in the speech-act. Its sole consequence is that some course of action has been called for, but nevertheless, because this summons constitutes a reason for doing the action, an order with a contradictory content may be accounted a case where the utterance 'cancels itself and leaves nothing'[101].

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[97] Cf. chap. 4, p. 74ff. above.

[98] Chap. 5, p. 112 above. Cp. chap. 4, p. 106ff.

[99] How To Do Things With Words, op. cit., p. 154-5.

[100] Ibid p. 154.

This justification of the square's contrariety relation is based on the _primary_ relation of commands to the world, as acts giving (by _constitut-_

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[101] Cf. P.T. Geach, 'Imperative Inference', _op_. _cit_., p. 37.

ing) reasons for action.[102] It may be contrasted with von Wright's way of reaching the same conclusion: he brings in his will-theory to license inference of the impossibility of commanding a 'contradictory' act from the impossibility of such a command being fulfilled.[103] But this (as von Wright makes clear) is a principle reaching far beyond orders with contents of the form 'p and not p' to any act that cannot be done.[104] Further, the extension of the principle to permissions with contradictory contents[105] seems unnecessary. Von Wright surely had a point when he said earlier that though 'it may be thought "awkward" to permit contradictory actions...it is difficult to conceive of any logical argument against [it]'[106]. Linguistically, at any rate, it is very hard not to interpret an expression like 'I give you permission to do both A and Not-A' as a conjunction of permissions. This can be explained in terms of the fact that to intervene on the deontic scene professing to define the scope of the subject's liberty as to A by means of such a proposition is to refrain from imposing any (real) restrictions on the recipient's freedom of choice. In von Wright's 1951 system it is true both that 'P(A . Not-A)' entails 'PA . P Not-A'[107], and that the former is the contradictory of 'O (A v Not-A)'[108], which would aptly describe the result produced by the 'analytic' imperatival utterance earlier treated as indistinguishable from a two-way permission[109]. But since this order is a degenerate one, a limiting case, there would seem to be no objection to the act of overtly refraining from giving it having the same net result as the order itself. Alternatively, a two-way permission could be regarded as the 'real upshot' of an authority's purporting, by a sort of joke, to license a breach of logic; for the conjunction of permissions would be all that was left when conditions of pointfulness had been taken into account.[110]

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[102] Cf. p. 181 above.

[103] NA p. 134-5 and p. 149-51. NA p. 148-9 explains why the fulfilment impossibility without the will-theory will not suffice alone.

[104] Cp. chap. 4, p. 75 above.

[105] NA p. 134-5.

[106] DL p. 69.

[107] DL p. 72, but, as noted chap. 2, p. 27 fn. 1 above, it is not equivalent to it.

The foregoing argument may be regarded as illustrating how some aspects of the logical assessment of orders and permissions require more substantial criteria than fulfilment conditions, which cannot reach beyond the propositional content to the aim which gives such speech-acts their definitive force. This is not to deny that, where separate speech-acts are involved,

> as regards the logical relations of directives among themselves, the provenance of the directives is no more important than is the provenance of statements as regards their mutual logical relations.[111]

For the special considerations pertaining to coherence of the speaker's communication intention do not apply to the utterances of distinct speakers or of the same speaker on distinct occasions; each of these may fulfil its own immediate aim, even if that is at variance with the aim of another.

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[108] DL p. 67-8.

[109] Cf. p. 178-9 above.

[110] Cf. chap. 4, p. 107ff. above.

[111] P.T. Geach, 'Imperative Inference', op. cit., p. 39.

If this is accepted, the criterion for whether or not normative actions do so conflict with each other will have to be the impossibility of their joint fulfilment; von Wright puts it thus:

> A set of commands and permissions is consistent (the norms compatible) if, and only if, it is logically possible, under any given condition of application, to obey all the commands collectively and avail oneself of each one of the permissions individually which apply on that condition.[112]

This has the consequence that the relation of normative actions to their fulfilment by conforming action is equally independent of their source or provenance.[113] After all, the possibility of fulfilling an order or set of orders depends simply on the (collective) performability of the actions which form the content of the orders; in the type-act sense of 'order' it just is that possibility.[114]

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[112] NA p. 144; cf. chap. 3, p. 50 fn. 14 above, where 'fulfilment' was explained in such a way as to allow for the opposition between permissions and prohibitions which has been examined in this chapter.

[113] Affirmed by Geach, 'Imperative Inference', op. cit., p. 40.

[114] Cf. above p. 163 fn. 20 and Alf Ross, 'Imperatives and Logic', op. cit., p. 38 (commenting on the superfluity of the mark of imperativeness '!' in the system set out by Hofstader and McKinsey in 'On the Logic of Imperatives', Phil. of Science, vol. VI 1939): 'The truth of any indicative sentence is identical with the satisfaction of the corresponding imperative. To say that the door is closed is identical with saying that the imperative Close the door has been satisfied.' Cp. R.M. Hare, The Language of Morals, op. cit., p. 21.

Even bringing in the notion of the opposed illocutionary forces of permissions and prohibitions, just as it will not fault a set for failure of some normative action in its immediate aim in the way that inconsistency in a set of assertions at once shows up the presence of a fault in some member's achievement of its immediate (theoretical) aim[115], so it will not automatically show that there is anything amiss with the set as a number of measures taken by the same or by different authorities for influencing what becomes the case in the world through their subjects' behaviour. For some of the further intentions for which these measures were adopted may not have been normal: a tyrannical authority may deliberately issue conflicting prescriptions as a way of putting himself in a position to inflict punishment (or at least pain); alternatively (as perhaps in the South African case[116]), the authority may not bother to sort out a case of conflict because his purposes do not suffer thereby. Again, authorities with conflicting aims may just have to fight it out in essentially the same way as a schoolboy who has received permission to use a particular ball in the playground may have to struggle with the school bully to take advantage of it while the yard supervisor looks on in silent acquiescence, thereby implicitly granting the bully a similar permission. This illustrates how differently inconsistency affects prescriptions even in their relation to fulfilment in the world: learning that an assertion one has made is in conflict with something said by someone else is normally at least some reason to consider whether or not to withdraw it, but a case of prescriptive conflict with some other authority may sensibly serve rather as a stimulus for impressing the threatened prescriptions on one's subjects with all the more emphasis and urgency.[117]

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[115] Cf. p. 187 above.

[116] Chap. 1, p. 11 above.

It seems reasonable to conclude that anyone setting out to justify the square would be hard-pressed to find convincing criteria to overcome the limitations of those provided by obedience conditions if the elements of the square were divorced from the individual ruling utterances in terms of which this chapter has interpreted and defended some of the claims embodied in the square's arrangement of its positive formulae. And positive as well as this negative encouragement to continue along the same lines may be found in the fact that, the contrariety relationship having been justified, the subalternation thesis - that commanding entails permitting - is easily proved.[118]

It was accepted in chapter 1 on the grounds that an authority intent on commanding A must refrain from forbidding it if his speech-act is not to stultify its own aim and fail to establish an obligation. It has now been confirmed both that permitting is essentially refraining in a ruling utterance from forbidding and that to succeed in commanding A it is necessary to refrain from forbidding it. Hence commanding does entail permitting, and for the reasons given in Part I.

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[117] For an extended treatment of the points of disanalogy emphasized in this paragraph, see B.A.O. Williams, 'Consistency and Realism', op. cit.

[118] Cp. DL p. 67 and NA p. 158.

With that, the triple disjunction of conjunctions[119] is established in the interpretation initially proposed[120]. So the analysis of permitting as overtly refraining from prohibition accords with the views advanced in Part I of this study as to the interrelationships of the three main types of ruling. The next task is to bring this analysis to bear on a wider range of authority behaviour.

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[119] P. 177 above.

[120] Chap. 5, p. 112

Chapter Seven

Authority Non-Action

The deontic square of opposition, with its simplicity and economy and the intuitive appeal (as witnessed by the widespread adoption[1]) of interpretations of the O- and P-operators which make them interdefinable with the aid of negation, still remains on probation, even given the implicit relativization to single ruling utterances advocated in this study[2]. For it is one thing to argue, as was done in chapter 6, that the upshot of any ruling utterance must embody the truth of, for example, one and only one member of the pair 'PA' and 'FA' and to propose an analysis of permission as a type of speech-act definable in terms of prohibition and the concept of an overt refraining utterance;[3] it is quite another matter to be able to reject von Wright's negative answer to his original interdefinability question by showing that 'PA' and 'FA' are proper contradictories in the descriptive interpretation appropriate to the propositions of the square[4]. Yet unless 'PA' can be shown equivalent to 'Not FA', the square as a whole must founder.[5] The difficulties posed by the paradoxical consequences imported into the square by its negative formulae (the last of the budget of problems sketched in the opening pages of chapter 5) have been left until this stage of the study, in the belief that they would be most usefully approached from the position to which the first two chapters of Part II have led.

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[1] Cf. the comments of E.J. Lemmon, 'Deontic Logic and the Logic of Imperatives', op. cit.

[2] Cf. e.g. chap. 3, p. 41 above.

[3] Chap. 6, p. 175 above.

Hitherto, the only way it has proved possible to defend any of the claims embodied in the square has been by treating the arrangement of its positive components as a projection of logical connections between the speech-act descriptions in terms of which its propositions and relations have been analyzed and justified since chapter 3. The analysis of the positive propositions in such terms as there having occurred a ruling utterance with a certain illocutionary force and propositional content which has not for any reason become inoperative was one which recommended itself in its own right, independently of the problems of the square. But once it had been accepted, the presence in these deontic propositions of an at least implicit reference to the authority who has made and not cancelled a certain type of ruling did more than add to the weight of reasons for supposing that the logical relationships of the square could not be expected to hold save under a restriction to the results and implications of what is done in one ruling utterance at a time; it helped in a positive way to establish a large part of the square as a picture of what must, must not, and can be the case as the result of any speech-act with the force of a ruling by an authority on what his subjects are to, or need not, do.[6]

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[4] That von Wright's question at NA p. vi (quoted above chap. 5, p. 117), though couched in terms of permission- and obligation-norms, reduces to this question about deontic propositions was argued in chap. 6, p. 157ff above, following the critique of his notion of prescription-norms in chap. 5. Accordingly, in this chapter the predominant meaning of terms like 'permission' and 'prohibition' is the 'descriptive' one found in talk about having permission, being permitted, etc. It will be found, I think, that this does not distort von Wright's views in the passages discussed (which precede the main development of the 'ontology of norms').

[5] Cf. chap. 5, p. 114 above.

For example, if A is permitted under some ruling of the authority it cannot also, *under that same ruling*, be prohibited, and vice versa; and under any ruling it must be either permitted or prohibited. This is a projection of the fact that any ruling utterance must make true one and only one of the pair 'PA' and 'FA', because a speaker doing one thing must necessarily leave undone something else that he might have opted for - he must choose, not just (trivially) between making 'FA' true and refraining from doing so, but between making 'FA' true and refraining from doing so in the peculiarly *overt* way that is imposed upon each of his official ruling utterances through the by now familiar exclusive and exhaustive trio of conjunctions which a given utterance may elect to realize: (OA . PA) v (PA . P Not-A) v (P Not-A . FA). It is the operation of this trio on the utterances of an authority[7] who is being addressed and listened to in his official capacity that endows an omission with its significance for the description of what he has done as the result of the selected ruling utterance. If he has omitted to forbid A, he may be held to have gone on record as refraining from doing so and hence to have permitted A; if he has enjoined A, he can't also at the same time have enjoined Not-A.

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[6] Cf. chap. 5, pp. 111-12 and chap. 6 *passim* above.

Now for the negative formulae. It will be remembered that the paradox was derived from the combination of two premises, (A) the square's claim that Not FA $\equiv$ PA, and (B) the counter-claim that a negative formula of the form 'Not ...A' is true if the authority has not acted at all with respect to A.[8] Now Part II's scrutiny of the square is being undertaken less for its own sake than to further investigation into those aspects of the nature of deontic concepts which the square purports to represent in the arrangement of its propositions. The square itself is less important for this purpose than the source of the attraction which its contradiction theorems - even if they are invalid as they stand - evidently hold for those who wish to return an affirmative answer to von Wright's interdefinability question. Von Wright himself follows up his own negative answer, not only by making a cardinal principle of his 1963 position the rejection of his previous view 'that (all) permission is mere absence of prohibition', but also by attempting to make permission a more positive notion than is compatible with the refraining analysis of this study[9]. To show that permitting speech-acts are essentially 'negative' in their results as well as in themselves, it will be helpful to consider ways of reconciling the square's use of negative formulae, in which negation operates in the usual truth-functional way, with the 'third possibility' of authority non-action that threatens to insinuate itself between, for example, the pair of alleged contradictories 'PA' and 'FA'. The aim, however, is not to show that this possibility does not exist or that (B) is false, only to argue that the sense which the rejection of (A) ought to give the distinction between permission and the absence of prohibition is not such as to make it sheer error to find a certain plausibility in the square's equivalences. The 'ordinary language' dictum which provided the intuitive justification for the 1951 definition of 'OA', namely, 'We ought to [sc. it is obligatory for us to] do that which we are not allowed not to do'[10] should at least not be abandoned without due consideration of its merits.

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[7] As described in chap. 3, p. 52ff, chap. 6, p. 177ff above.

[8] Chap. 5, p. 113f above.

So far the procedure has been to postpone the problem of the paradox by accepting as a presupposition that any act dealt with has been given some deontic status or other by a ruling of the authority in question[11]. The time having come to consider the acceptability ofthis presupposition, it will be convenient to accord it some notational recognition - not, it should be said, to win an easy victory over the paradox (an empty gain) but as a heuristic device which will be dropped where it is not pointful to make the normative action presupposition explicit for expositional purposes.

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[9] See chap. 5, p. 115f above.

[10] DL p. 61, quoted above chap. 5, p. 115.

[11] Cf. chap. 5, p. 113 with fn. 4.

It can be false that A is permitted by the authority for (at least) either of two distinguishable reasons. (1) The authority has taken normative action over A, perhaps in more than one of the rulings that are currently in force, but that action was not to permit A; (2) the authority has taken no action at all with respect to A. It is important to stress that the proposition which is false is the same in either case; it is not that there is an ambiguity in 'A is not permitted', only that it is true for different reasons. Or, to put the point in another way, it is the same deontic 'property' which A lacks, that of being permitted under some current ruling of the authority, whether the lack is due to the act's being prohibited under every ruling that touches upon it or to the absence of any deontic character at all. So let the bracketed notation 'Not (PA)' be adopted to symbolize that the proposition has these alternative truth-conditions; analogous expressions with analogous truth-conditions can be constructed for the O- and F-operators. (The purpose of the brackets is to convey an explicit warning of the disjunctive truth-conditions.)

It is obvious that this proposition is not equivalent to 'FA', for it shares a truth condition with 'Not (FA)': when 'Not (PA)' is true because the authority has not acted, 'Not (FA)' is also true. When 'Not (PA)' is true because of how the authority has acted, 'Not (FA)' is false (since 'FA' is true[12]). That is, 'Not (PA)' and 'Not (FA)' can be, but are not always, true together, because they do not state that the authority has not acted simpliciter - rather, they state something which is a fortiori true if the authority has not acted, namely that the authority has not permitted A and that the authority has not forbidden A respectively.

They cannot, however, be false together unless there is a plurality of rulings on A creating an 'incoherent' deontic situation in which A is both permitted and forbidden; for given that the authority has avoided being inconsistent as regards A, 'FA' implies 'Not (PA)' and 'PA' implies 'Not (FA)'; hence if 'Not (PA)' is false, so is 'FA', which means that 'Not (FA)' must be true. But since it has already been decided that the square cannot cope with a plurality of rulings, it is only the possibility of the joint truth, not the joint falsity, of 'Not (PA)' and 'Not (FA)' that militates against including negative formulae along with the positive ones in a square which can then be given a unified interpretation in the recommended manner.[13] For the only further obstacle to accepting the equivalence of 'PA' and 'Not (FA)' is that non-action by the authority is a sufficient condition for the truth both of 'Not (PA)' and of 'Not (FA)'. The obvious way to reconstruct the square would be to rule this out as a possibility, to consider the relations it summarizes as holding only on the presupposition that normative action has taken place.

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[12] As argued chap. 6, p. 176 above.

[13] Cf. chap. 5, p. 111ff.

Accordingly, the hyphenated expressions 'Not-PA', 'Not-OA', and 'Not-FA' may be introduced in contrast to the bracketed notation, under the stipulation that normative action by the authority be a necessary condition for their truth. 'Not-PA' therefore means, roughly, 'The authority has taken normative action with respect to A as a result of (or: despite) which A is not permitted', and unlike 'Not (PA)' it is equivalent to 'FA'. On this reading the square holds, because all the negative expressions in it are firmly equivalent to the corresponding positive formulae, whose interrelations are no longer sub judice. However, an additional consistency presupposition would be needed before the bracketed negative formulae could be included as outriders to the square, since only then would each hyphenated negation entail, but not itself be entailed by, its bracketed cousin [Not-PA → Not (PA)].

For consider now the negative formulae, 'Not O Not-A' and 'Not FA', positioned in the bottom left hand corner. If the elements of the square are taken in the 'absolute'[14] reading suggested by their grammatically subject-predicate formulation, without even an implicit reference to an authority, it becomes a matter of logic that A and Not-A cannot under any circumstances at all both be obligatory. Such is the unreality of a starting point for the exploration of deontic concepts which rules out _a priori_ the occurrence of conflicts of obligation with a logical basis[15]. Realism demands that 'Not O Not-A' not be allowed into the square with an interpretation implying (as would the bracketed version of it) that Not-A has not been made obligatory by _any_ ruling of the authority to which it is being referred (to say nothing of other authorities). For example, if A is obligatory under some particular ruling, it is not the case (if the argument of chapter 6 was correct) that Not-A also is obligatory under that ruling; but this cannot be allowed to restrict the scope of any other rulings by the same authority, be they past or future, unless - by another unreal definitional _fiat_ which should be avoided - rationality or internal consistency is built into the notion of a corpus.[16]

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[14] For this term see chap. 3, p. 41 above.

But 'Not O Not-A' must mean the same when it is true, _a fortiori_, by the subalternation entailment from the truth of 'OA' as when it is true independently of this. So if in the former case it would be wrong to interpret it as being to the effect that Not-A is not obligatory under _any_ ruling, then consistency demands that it always be to some one ruling or other that Not-A's not being obligatory is credited. And to insist on this would be to put 'Not O Not-A' beyond the reach of the authority non-action truth-condition which alone bars it from equivalence with 'PA'.

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[15] Cp. chap. 3, p. 48ff; assumptions which exclude inconsistency are emphatically repudiated by E.J. Lemmon, 'Deontic Logic and the Logic of Imperatives', _op. cit._, esp. §2, and Erik Stenius, 'The Principles of a Logic of Normative Systems', _op. cit._, p. 254.

[16] Cf. chap. 6, p. 160 fn. 11 and p. 176 fn. 52 above.

That is, the effect of relativizing the negative as well as the positive formulae to single ruling utterances is precisely to secure for them elimination of the authority non-action truth-condition flagged by the brackets. For thus interpreted, 'Not-O Not-A' (as it can be written) describes the present and still continuing upshot of some past ruling action by denying that Not-A is obligatory (as a result of it); which is the same as saying that there is a current ruling on A which does not forbid A. It is then easy to explain[17] why this record of something the authority has omitted to do is deducible from the proposition that, as the result of some past ruling, A is obligatory. For if it should happen that a ruling utterance necessarily involves its maker in refraining from making Not-A obligatory, as chapter 6[18] argued was the case with utterances that make A obligatory, then *a fortiori* if the obligatoriness of A has been laid down in a certain speech-act, it is not the case that Not-A is subject to any obligation stemming *from that speech-act*. Of course, the same negative import cannot on that basis be automatically claimed for other speech-acts of the authority in question concerning Not-A, still less can it be asserted 'absolutely'; but when the negative formulae are all subjected to the same implicit relativization as the rest, the square may be taken as a whole once again, negative formulae included.

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[17] As suggested above chap. 5, p. 113.

[18] P. 177ff.

It may seem that this line of thought is nothing but a reinterpretation to force the two negative formulae of the square's lower left hand corner into a 'refraining' mould which has already been prepared in such a way as to secure (given analogous adjustments in the other parts of the square) all the desired results. If so, it would nonetheless be evidence favourable to the refraining analysis of the positive proposition that PA, that the logical powers assigned to it by the square should be shared by any formula subjected to that remoulding; for equivalence between those negative formulae and 'PA' was not a premise of the argument.

But in fact the equivalence argued for does not involve obliterating the distinction between an overt refraining utterance and an ordinary omission; the latter, the not doing of something, is all that is ascribed to the selected ruling utterance by the proposed interpretation of the meaning of negative formulae. The hyphen, whose introduction into the notation of the negative formulae was legitimized by treating the elements of the square as records of what is and is not the result of some ruling utterance still in force, does not signify that the deontic state of affairs thus recorded is the upshot of an overt refraining utterance, only that it is the upshot of some ruling utterance, i.e. that the action in question has a deontic status - one other than the status denied of it. This suffices to make the absence of a prohibition equivalent, when regarded as the upshot of some ruling, to the presence of a permission, without doing violence to the meaning of the negation-sign in negative formulae. A glance at the trio of conjunctions will show that any option from which 'FA' is excluded must include 'PA'. From this it can be inferred that 'Not-O Not-A' must record the result of a ruling whose force is in whole or in part[19] that of an overt refraining utterance; but that is an additional step depending on the notion of an overt refraining utterance and upon the consideration that the act of one who refrains from prohibiting A, even overtly, can hardly be expected to lead, in itself, to any other upshot than the absence or lack of prohibition.

Whether this sort of absence, brought about and maintained by an authority, should be denigrated as a 'mere absence' is not important by comparison with the fact that the only interpretation of 'Not O Not-A' which licenses its deduction from 'OA', simultaneously enforces its equivalence with 'PA' and thereby gives sense to an identification of permission with the absence of prohibition - provided, as the hyphen indicates, this is what chapter 4 called 'freedom from prohibition under authority' as opposed to 'the pristine freedom which is characterized by the absence of authority'[20] or, we should now add, by the absence of any deontic status within some authority's area of jurisdiction.

The above defence of (A) involves relativizing negative formulae to some particular ruling utterance in a way that would falsify (B) itself, since

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[19] Cf. chap. 6, p. 172 above.

[20] Chap. 4, p. 100 above.

(B) stakes a claim for the bracketed truth-conditions in place of the hyphen. Of course, if the paradoxical consequences were validly derived, the two premises were bound to be inconsistent as they stood; but it is something to have opened up, at least in principle, the possibility of a 'middle' way for escaping the necessity of rejecting either (A) or (B) as false simpliciter and opting, instead, for the view that the plausibility of their claims to our allegiance depends on (A) being construed according to the hyphenated and (B) on the bracketed model, so that once this is written into them they will be seen not to be in conflict.

If, however, all this is to be more than a formal exercise, we must go on to consider how the role of negation in reportive deontic discourse measures up to the two rival models. It is no good asking for the true contradictories of the formulaic sentences 'PA', 'FA', and 'OA' as such, in the abstract, for they possess none prior to their being assigned truth-conditions in their own right, by stipulation, or (von Wright's method[21]) being set up as the formalized translations of a range of ordinary language sentences. In this study they have been regarded primarily as abbreviated versions of simple sentences of the form 'A is permitted', etc., where 'A' is (an abbreviation of) the description of some type of action.[22] These are, of course, the very sentences that appear in the square, so the answer to our present problem should be given by analyzing the truth-conditions of those sentences and calculating the truth-functional negation of the result.

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[21] Cf. e.g. passage quoted chap. 5, p. 118 above.

[22] Cf. Introd. pp. 3-4; chap. 3, p. 39ff above.

Given the oratio obliqua analysis of the deontic propositions of the square, no other result can be arrived at than the bracket-indicated negations; they, after all, were introduced to signal the fact that the truth-conditions of 'A is not permitted' are those of 'It is not the case that there is a ruling under which A is permitted' rather than those of 'There is a ruling under which it is not the case that A is permitted'.[23] If, then, the equivalences on which the square's contradiction theorems are based presuppose normative action, that presupposition must remain a presupposition and not be built into the meaning of the sentences involved, as it is into the hyphenated expressions; and if the contradiction theorems are to lose their formal validity, a suitable explanation must be supplied for the power of this presupposition to support the rather tight connections between the propositions involved from which those theorems derive their plausibility. It is in this pragmatic form that I shall defend the suggested 'middle' way, after first discussing various matters connected with (B) in order to put in a plea for the respectability, indeed importance, of the notion of the absence of prohibition.

This programme makes it imperative to establish at the outset just how much is conceded by rejecting (A) in deference to the indisputable truth of (B). The answer may be read off from the price paid earlier for defending (A) with the aid of the hyphen. To save the square it was found necessary to exclude from consideration not only (as with positive formulae) the possibility of a given act's deontic situation being constituted by there being more than one ruling by the authority in force over it (threatening inconsistency), but also the possibility of there being less than one (threatening the paradox) - that was the function of the hyphen. The indirect lesson of the earlier part of the present chapter, where this was shown also to be sufficient for the purpose, is, therefore, that to reject (A) commits one to acknowledging the possibility of inconsistency and of non-action, and that is all. The suggestion that there is at least a sense in which the presence of a permission can be identified with the absence of a prohibition still remains unchallenged.[24] The basis of the suggestion was the idea of an absence or lack of prohibition brought about and maintained by an authority, and this idea, of freedom under authority, can perfectly well be realized. All it takes is an overt refraining utterance in which a speaker indicates his intention of not doing something, of not making a certain deontic proposition true, and in which all else is as it should be for him actually to succeed in bringing off this abstention in his speech performance. If the phrase 'absence of prohibition' is worth disputing over, here, surely, is a situation to which it could be applied as an apt expression for a certain kind of freedom.

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[23] P. 202 above.

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[24] Cf. p. 201 and pp. 207-8 above.

Of course, there are also numerous other types of situation which can be so described. They range from areas of action altogether free of authorities, through cases where A can be said not to be prohibited by M because M is not an authority with jurisdiction over A, or perhaps not an authority at all, to the more interesting applications of the phrase where an authority with jurisdiction has failed for some reason to exercise it. This last is the area von Wright has mainly in mind when he launches his attack on descriptive interdefinability (and through it, as I have urged[25], on interdefinability in general).

He sets out by announcing that he is going to 'state one reason only' from among the considerations which have led him to think that the common view he had hitherto shared, according to which 'a permission to do a certain thing is the same as the absence or lack of a prohibition to do this thing', is 'in serious error'.[26] He then writes as follows:

> One cannot make an inventory of all conceivable (generic) acts...
> As new kinds of act originate, the authorities of norms may feel a need for considering whether to order or to permit or to prohibit them to subjects. The authority or law-giver may, for example, consider whether the use of alcohol or tobacco should be permitted. In the case

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[25] Cf. p. 198 fn. 4 above.

[26] NA p. 85.

> of every authority, personal or impersonal, there will always be a great many acts about the normative status of which he never cares.
>
> It is therefore reasonable, given an authority of norms, to divide human acts into two main groups, *viz*. acts which are and acts which are not (not yet) subject to norm by this authority. Of those acts which are subject to norm, some are permitted, some prohibited, some commanded. Those acts which are not subject to norm are *ipso facto* not forbidden. If an agent does such an act the law-giver cannot accuse him of trespassing against the law. *In that sense* such an act can be said to be 'permitted'.
>
> If we accept this division of acts into two main groups—relative to a given authority of norms - and if we decide to call acts permitted simply by virtue of the fact that they are not forbidden, then it becomes sensible to distinguish between two kinds of permission. These I shall call *strong* and *weak* permission respectively. An act will be said to be permitted in the weak sense if it is not forbidden; and it will be said to be permitted in the strong sense if it is not forbidden but subject to norm. Acts which are strongly permitted are thus also weakly permitted, but not necessarily vice versa.[27]

I take it that what is here presented in justification of a *volte-face* on the subject of total interdefinability is the general case for distinguishing between a kind of permission which is, and a kind which is not, reducible to the 'mere absence of prohibition'. For von Wright concludes the section by summing up the difference between the two kinds of permission: 'Roughly speaking, an act is permitted in the strong sense if the authority has considered its normative status and decided to permit it', whereas weak permissions are 'not prescriptions or norms at all'; only strong permission is a norm-character, though whether it is also an independent one, as weak permission a fortiori cannot be, is left for subsequent discussion of interdefinability possibilities which do not work via the concept of negation.[28] Thus although only here is it so named, weak permission is the category responsible for the qualified manner of von Wright's rejection of (A) as not holding for all permission, and it is this, clearly enough, rather than the pristine liberty of an authority-free area of action, that he is anxious not to have identified with (the presence of) ordinary permission.

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[27] NA p. 86.

Now the truth-conditions for saying that an act is weakly permitted correlate exactly, as von Wright himself here indicates, with those for its not being forbidden, as determined, inter alia, by the possibility of authority non-action; that is, with the truth-conditions for 'Not (FA)' as opposed to 'Not-FA', which describes the strong permission that obtains when an act 'is not forbidden but subject to norm'. The salient points may be found in the last paragraph of the quotation: (a) strong permission (elsewhere just ordinary permission, though admitting of different degrees of strength) entails weak permission,[29] but not vice versa;

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[28] NA pp. 86-7. Cf. chap. 5, p. 115f above.

[29] Granted, of course, the consistency which von Wright builds into his notion of a corpus and which allows him to work with 'is not forbidden', or at least 'is not forbidden by M', in formulating his notion of strong permission (cf. pp. 204-5 above).

(b) strong permission requires authority action;
(c) authority non-action is a sufficient, but not necessary, condition for an act's being weakly permitted. That authority non-action is not a necessary condition for weak permission follows from (a); and this fact about weak permission is what stops it from being merely equivalent to authority non-action, so that it becomes plausible to consider weak permission a genuine species of permission.

But can weak permission be accepted as in _any_ sense a genuine species of permission? Consider the truth-conditions again. To say that A is weakly permitted is to say: either A has been (strongly) permitted by positive normative action or A has not been covered by normative action at all. But that surely amounts to saying: either A _has_ been permitted, or it has neither been permitted nor forbidden nor enjoined. Weak permission no more defines a kind of permission than does 'Not (FA)', to which the truth-conditions laid down by von Wright make it equivalent. It is one and the same permission that _must_ hold if A is permitted and _may_ hold if it is not forbidden. The truth-conditions for the latter do not define a special sense of 'permission'; they simply include ordinary permission as one disjunct.

But since they do include it, it is not just a quibble to object to the use of 'weak permission' to classify what are explicitly admitted not to be prescriptions or norms at all. For if the examples given in von Wright's first two paragraphs do illustrate a special type of 'permission', the truth-conditions set out for them in the last paragraph do not elucidate it, as the misleading nomenclature may seem to imply. It remains therefore to pass to those paragraphs to consider what account should be given of the examples themselves.

It is certainly prima facie plausible to maintain that a person who performs an act which is not forbidden by law (von Wright's substitution for his initial 'norm') performs an act which is in some sense permitted under the law, even though the act is mentioned nowhere in the law books, judicial decisions, etc. History yields abundant illustrations of law-makers forced to forbid by arduously formal procedures activities which they considered undesirable but could not punish or prevent until legally outlawed. But consider an example from a different sphere:

Mother:	It was very naughty of you to wear your new dress to the playground.
Kathy:	But you've never said one word about it.
Mother:	What if I haven't - that doesn't mean that you're allowed to wear it there without my permission. Surely you don't think that you may do anything that comes into your head just because I haven't told you not to.

It would be an unusual parent who considered his children free to do everything within his jurisdiction which he has not forbidden. The conclusion to a parental analogue of von Wright's line of reasoning seems much less plausible than in the original legal case:

> There are some acts which parents haven't mentioned.
>
> It is true that these acts are not forbidden.

> A child who performs such acts is not trespassing against his parents' injunctions.
>
> *In that sense* the act can be said to be permitted.

In *what* sense can the act be said to be permitted? In a sense such that the child won't be punished or scolded by his parents? Obviously not, for parents do take retributive action in such circumstances. Or is it that the child doesn't *deserve* to be scolded or punished, that since his parents haven't forbidden the act it cannot be justifiably regarded as a reason for parental disapprobation?[30] Surely not! Consider the example of a parent who, not surprisingly, has never thought to forbid his son to stow himself in a crate and be flown to Australia. Punishment by the parent for such a deed would not generally be considered unjust or arbitrary, as it *would* be if parental permission had actually been granted. Indeed, some would consider the parent open to criticism if he did not punish or rebuke his son for behaving so wildly, even though the boy had never been instructed on this particular act. Nor, surely, would a judge rule that a parent (or teacher, employer, etc.) had in effect permitted his charge to do A *simply* because he had not forbidden it. Should we on that account postulate a 'weak' kind of prohibition, equivalent to the 'mere absence' of permission ['Not (PA)'] within an area of jurisdiction, to deal with the parental case? For there is as much reason here to describe the escapade as forbidden (simply on the grounds that it was not permitted) as to apply the term 'weak permission' in the legal case.

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[30] Cp. chap. 4, p. 94 above.

Rather than positing weakened kinds of enactment to fill the gaps 'within a totality of prescriptions which flow from one and the same supreme authority'[31], be the hierarchy of power as formal as a legal system or as informal as a classroom or family, we should seek to explain the discrepancy between the legal and the parental examples by differences in the background assumptions and general principles governing moral and other reactions in the two spheres. The parent-child relationship, insofar as it is (or was) one of authority and subordination, is governed by a general rule which prescribes that in the area of parental jurisdiction the child does not, without asking permission beforehand, venture on anything which departs too far from normal routine without the justification of antecedently given permission or the excuse of precedent. This rule may never be explicitly enunciated in general terms, and the boundaries of its application may be vague, but the life of a parent would be intolerable without it. The familiar warning one child gives another, 'You'd better not do that without permission', points toward acts within this range, acts which if not permitted by explicit enactment are held to fall, not under a special 'weak' prohibition, but under some such general 'prohibitive' rule as the one implicitly appealed to in the parental dialogue to justify the mother's reprimand. There is no need here to determine exactly what falling under a 'prohibitive' rule means in order to find reasons for supposing it is not the same as having been forbidden by a current ruling utterance.

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[31] NA p. 87.

So far, this study has kept within the realm of the use of deontic language to perform and to speak about the results of the various types of speech-act within the general category of normative action, so before stepping outside it a brief review of its boundaries will be in order. Since chapter 3[32] listed the basic trio of commanding, forbidding, and permitting, the repertoire for the performative, 'creative' use of deontic language has been somewhat enlarged by the addition of, for example, anticipatory and executive signals, cancellations, refusals, re-issuings (all with the omissions that are bound to accompany any normative action which refrains from making itself painfully explicit in its implications). But all these seem just to superimpose additional factors peculiar to themselves on the standard alternatives[33], rather than to widen the basic range of possible resultant deontic situations, since all involve taking normative cognizance of the act in question. It is true that cancellation is sometimes thought to be a way of simply nullifying normative action, of 'undoing' a deontic state of affairs and leaving a null result.[34] But normally this would mean the same sort of 'absence' as results from any refraining act[35] - one compatible with, indeed dependent upon, the occurrence of an official and appropriately publicized speech-act which makes it irrevocably the case that there has been a ruling as a result of which A lacks a certain deontic status (and so must have the 'contradictory' status): (Not- ...A). The same possibility of formulating the result by a hyphenated negative attaches to refusals, even refusals to do anything about an act that has hitherto belonged, as it were, to virgin territory.

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[32] P. 36 above.

[33] Cf. e.g. chap. 6, p. 173 above on cancellation of a prohibition.

[34] See chap. 6, p. 173 with fn. 44 above; NA p. 191 counts cancellation as a type of normative action regardless of its result.

For once an act has come up for consideration, only a radical refusal to permit or to forbid it will prevent it having a deontic status for as long as is chronologically feasible. Here there are at least two temporal factors to take into account: first, and most obviously, a ruling not replaced by another can become chronologically inoperative only through its having specified a time or period which has passed out of the subject's range of action[36]; second, decision on the deontic status to be given to an act can only be deferred without prejudice to its present status, if any, so long as the time for action has not arrived. For if it has, the continued deferment (presuming it is public to the subjects concerned) will amount to a refusal, and the act will be subsumed under whatever rulings (if any) constitute the deontic status quo. This may be seen by comparing the slightly different implications of two examples: first, 'I'll tell you tomorrow whether I'll allow you the day off, Miss Jones', from which the secretary can infer that silence will mean 'duty as usual'; second, 'I can't give you a decision on what's to be done for Parents' Day next month; I need time to think about it', from which no such clear indications can necessarily be drawn - if the Headmaster reaches no decision, Parents' Day may well arrive without his having had anything arranged at all. In that case, assuming that there are no regular instructions in force for such days, the non-routine aspects of the situation occasioned by the visiting parents may just have no deontic structure at all, the Headmaster having established none. Alternatively, he may be held to have given a carte blanche - it all depends on the institutional guidelines within which he holds his responsibilities and on relations with his staff, there being no hard and fast rule for ascriptions of 'tacit consent' and the like.[37] But given that an act is properly equipped with a determinate status, an authority wishing to return it to the pristine freedom it may once have enjoyed cannot dodge the issue in the way he may be able to get away with continuing to ignore an undefined act; he must signify overtly his intention of neither assigning nor leaving to it any deontic status at all. That is, he will have to abdicate from jurisdiction over the act.

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[35] Pp. 207-8 above.

[36] Cf. chap. 3, p. 39 above.

Abdication is worth a brief comment in passing as being an exception to the 'creative' role of the speech-acts of the normative action category, as the only purpose for which deontic language can function in a performative use without making some positive deontic proposition(s) true. A mother who washes her hands of a daughter's plans for marriage with the words 'I don't give you my permission, but I won't say you mustn't, even though I know you'll live to regret it' does make true, by her overt abstentions or refusals, both that the marriage is not permitted and that it is not forbidden by her. Her utterance comprises no *ruling* on the subject, however, since by her action she accomplishes a result precisely equivalent to that non-action truth-condition which constitutes freedom *from* rather than *under* authority. The difference between abdication - which means a grant of autonomy and hence is an important notion in moral *education* - and an ordinary two-way permission shows itself above all in the sequel: an employer who has granted his staff discretion over their choice of lunch-hour may meet with resistance when trying later to impose a mandatory rota, but he is not likely to be in quite the same *conceptually* ambiguous position as a parent with maturing offspring who finds privileges that were conceded without intention of relinquishing authority in the matter rapidly transformed into the 'rights' definitive of a new step towards adult autonomy.

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[37] Cf. H.L.A. Hart, The Concept of Law, op. cit., pp. 45-7 and below p. 223.

This notion of abdication illustrates, therefore, how the truth of (B) is not the mere logical inconvenience it may have first appeared but is essential for the realization of the purposes that direct the practice of certain authority-subordinate institutions. It is the only kind of normative action whereby, after the pristine liberty of an act has once been sullied, 'Not (FA)' can be restored to truth without a strong permission remaining in possession (for it also makes 'Not (PA)' true). As such, it stands at the opposite end of the spectrum of normative activity to just quietly leaving acts undefined, a strategy which requires careful concealment from subjects of its aim, since otherwise, if each knows the other knows what is going on, cases are bound to occur in which the authority could not reasonably deny having given his 'tacit consent' by overtly refraining from prohibiting something[38]. And a 'tacit consent' established by adequate evidence of the authority's manifest indifference to the performance of some act would amount to a strong rather than weak permission.

Such, then, is the repertoire of normative actions available to authorities. But deontic language is also used in and concerning situations which are not created by any identifiable authority action - where, for example, one is said to be prohibited or permitted to do something by, under, or according to some rule, standard, principle, code, regulation, and so on (for convenience of reference this heterogeneous collection may be represented by the broadest term, 'rule'). It is perhaps regrettable that we don't in practice stick more closely to Mayo's excellent linguistic precept to the effect that, while people in authority command and forbid, rules prescribe and prohibit, and both persons and rules permit[39]. But for present needs it will suffice to draw a line between (i) A's being enjoined, forbidden, or permitted by some authority and (ii) A's being enjoined, forbidden, or permitted by a rule or any other non-personal 'source'. This line is intended to distinguish two types of case, the first by now familiar, the second not so far discussed: (i) cases where, if A has a deontic status, there must be an answer to the question 'When did the authority enjoin/forbid/permit A?', (ii) ones where this question is inappropriate, even if they concern a rule which was brought into operation by an authoritative body at a determinate time. For example, the committees responsible for determining and revising the rules of various games, associations, etc. would not normally be said to have forbidden participants to do the things which are against the rules, even if penalties have been instituted for infringement. Nor again is infringement likely to be considered disobeying the committee.

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[38] Cf. chap. 4, pp. 101-02 above.

[39] 'Varieties of Imperative', op. cit., p. 168, but cp. O.E.D. svv. and synonyms.

This is only a preliminary characterization of the distinction - further details will fall into place as we proceed - but it should suffice to suggest the presence of some corresponding distinction between cases in which an act is permitted because it has been permitted at some more or less definite time and cases in which, though it may have become permitted, it does not owe its present status to having been permitted by someone in a position to permit it. This is not necessarily to say that the verb is radically ambiguous; after all, even the distinction between the normative 'permit' opposed to 'forbid' and the physical 'permit' opposed to 'prevent', which can reasonably be termed an ambiguity in the verb,[40] is compatible with an analogy of function within the two spheres of the term's application so close as to make the double use of a single word a fairly predictable development[41]. The noun 'permission', it may be noted, falls on the authority side of both distinctions: 'permissibility' and 'permissible' are hardly suitable for physical contexts, but 'permission' is narrower still in scope in that it also resists inclusion in phrases expressing the import of rules. In other words, permissions have to be given (by a person or group of persons) before they can be had, enjoyed, or taken advantage of.

To these linguistic indications may be added an argument based on Part I's analysis of authority-derived obligations and permissions. This led eventually to the idea of rules or conventions constituting certain utterances as reasons for action, and it is likely that the same resting point would have been reached by routes other than the particular *oratio obliqua* one taken in chapter 3's account of deontic propositions[42]. This comes through clearly in the following passage from Mayo:

> Authority never attaches to persons as such, but only to persons as having a certain status within an organization. Actual commands must of course be uttered by speakers, just as actual statements must; but the authority - or authenticity - of their commands depends not on their characteristics as speakers, or as persons,

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[40] Cf. chap. 2, p. 31 above.

[41] Cf. chap. 4, p. 99 (cp. also chap. 6, p. 183).

[42] Cf. chap. 4, p. 94ff above.

> but solely on their capacity as functionaries or officials... Organizations exist in virtue of the hierarchically related positions or offices which persons may hold; these offices exist in virtue of the successive limitations of their powers of command and areas of responsibility; and this limitation is effected by standing rules. The answer to the question: Which is prior, the authority of persons or of rules? is thus answered. Persons have authority only as office-holders; and this authority is determined by rules.[43]

But it seems hardly enough to stop here without going on to the further conclusion that neither the formulae 'PA', 'OA', and 'FA' nor their ordinary language counterparts can be given quite the _same_ analysis in cases where they presuppose and derive their sense from the operation of such rules as when they are considered as formulations of those rules themselves.

The difference would not have to be a radical one.[44] Mayo himself only argues that the distinction divides 'two types of imperative language'[45], aligned with two types of control. In the class typically represented by 'rules' he includes laws, licenses, traditions, principles, moral and professional codes, codes of etiquette, standing orders, conventions, customs, and the rules of games. He contrasts these with '_ad hoc directives_' like commands, prohibitions, and explicit permissions in two respects: directives require _speakers_ and involve a 'performatory' use of language, rules do not - they have instead the distinguishing feature of generality[46]. Hence 'all rules are standing rules, except those that are just being set up (just as all laws are in force, except those which are in the process of becoming law)'.[47]

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[43] _Ethics and the Moral Life_, _op_. _cit_., pp. 162-3.

[44] Cp. pp. 224-5 above.

[45] _Ethics and the Moral Life_, _op_. _cit_., p. 160. 'Imperative' is not here a grammatical term (cf. _ibid_, p. 24).

Now it is certainly true that rules, codes, customs, principles, and the rest cannot be particular with respect to agent or occasion for conforming action: that Jones is required to do A at 2 o'clock on a certain day of a given year cannot exhaust the content of a rule (for it would be nonsense to speak of a rule to such an effect), though it may be the import of a rule's applying to him at that time. On the other hand, there appears to be no incompatibility between the performative use of language and generality: a speaker can use a performative formula like 'I hereby vow...' to pledge assistance to everyone of a certain class whenever they are in a certain type of situation, so why exclude as a possible performative law-enacting use of language a monarch's saying to his assembled subjects 'I hereby command everyone henceforth to prostrate himself when in the Royal Presence'? Whatever the merits of Mayo's classification, there can surely be no objection to an alternative grouping of 'standing orders' - which it would indeed be inappropriate to entitle 'commands' - on the authority side of the line, together with such things as the 'commandments' issued by royal (and divine) authorities , so long as they are general at least as regards the occasions on which obedience is called for. There are many circumstances in which disobedience to, for example, the colonel's or the boss's standing orders is hardly separable from disobeying him; correspondingly, a set of regulations issued by an authority may often with equal appropriateness be viewed either as his orders and instructions or as a set of rules decided upon by him for the good governance of the practice for which he is responsible.

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[46] Ibid pp. 159-64. [47] Ibid p. 160.

Von Wright, at any rate, would certainly not consider generality a bar to being on the authority side of the dividing line.[48] In fact, he classifies the laws of the state as 'a species of prescription',[49] requiring a law-giver to have given them, so that we should 'be able to tell whose prescriptions to whom they are'.[50] True, he denies that his will-theory, as applied to 'legal norms', commits him to 'an anthropomorphic or theomorphic conception of the state as a being endowed with a will'.[51] But for it to apply to legal systems generally, he has to extend the notion of authority to include 'impersonal authorities' like legislative assemblies and states.[52] We may accept (while noting the qualifications) his initial illustrations of prescriptions:

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[48] Cf. NA pp. 75-83. Nor Black, 'Notes on the Meaning of"Rule",II', op.cit., esp. p. 141ff, who says precisely that in promulgating a regulation an authority thereby demands (forbids, permits) designated actions, the difference from orders and commands being that regulations are oblique, impersonal, etc. Cp. also Hart, The Concept of Law, op. cit., p. 23.

[49] NA p. 82.

[50] NA p. 12, in essential contrast to custom (cf. NA pp. 94-5).

[51] NA p. 121. He also declines to say 'who is the sovereign authority in a state'(NA p. 200), but this only concerns some authority in normatively unrestricted supremacy over all norm-issuing whatsoever(NA p. 192); so he does not seem committed to there being such an authority in, e.g. states with a written or formal constitution. Cp. Hart, loc. cit., p. 67ff.

> Military commands are an example of prescriptions. So are the orders and permissions given by parents to children. Traffic-rules and other regulations issued by a magistrate largely have this character too. The decisions of a law-court may be said to have a prescriptive aspect or component.[53]

It is also worth noting Cavell's suggestion that we have a tendency with regard to laws sometimes to think of them as rules and at other times to think of them as commands, depending (in part) 'upon where we - i.e., where our normal actions - stand (or where we imagine them to stand) with respect to the law or system of laws in question'. His idea is that we may think of 'the difference between rule and imperative as one between those actions (or "parts" of actions) which are easy (natural, normal) for us, and those we have to be encouraged to do. (What I do as a rule you may have to be made or directed to do.).'[54] But however this may be, even a half-hearted application of prescriptive terminology is in danger of losing its essential connection with normal prescribing agents as we move from 'the simplest imaginable legal system where a monarch has unrestricted legislative authority to enact law imposing obligations by pronouncing or writing down what he requires to be done'[55] towards the immense complexities of modern legal systems; for as the distance from the monarch increases there can be both a multiplication of the sources of law and a complication of the legislative process, which eventually puts rules instead of people 'in charge' to an extent that deprives the model of a monarch's prescriptions of most of its useful applications.[56]

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[52] NA p. 38, p. 76. [53] NA p. 8.

[54] Stanley Cavell, 'Must We Mean What We Say?', op. cit., p. 97 with fn. 23.

Fortunately, these demarcation problems need not prevent the distinction explaining how the legal and the parental examples can be the same as regards the ordinary deontic status of the act (which is simply that characterized by the absence of any prohibition _or_ permission stemming from the speech-acts of the relevant authority) and yet differ as to the appropriateness of describing the act as 'permitted' in some further sense - a sense connected not with a weakened kind of enactment but with the operation of a rule or principle making the act (in the legal, though not in the parental, case) _permissible_ rather than instituting a _permission_ for it. It is significant that von Wright's example of weak permission is a legal one, for the legal sphere _is_, at least as von Wright describes it, the reverse of the parental one in this respect.

On the very next page[57] he goes on to characterize a principle which, though it is not necessarily operative in all legal systems,[58] would

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[55] H.L.A. Hart, 'Legal and Moral Obligation', _op. cit._, p. 88, quoted above chap. 4, p. 95 fn. 14.

[56] H.L.A. Hart, _The Concept of Law_, _op. cit._, _passim_.

[57] NA p. 87.

[58] _Ibid_ with fn.

account quite adequately for his previous example of the agent who cannot be accused of trespassing against the law. This is the principle nullum crimen sine lege, which he interprets as 'a permissive norm with a peculiar content', namely that anything not forbidden within a certain hierarchy of power is permitted within this system. On that basis it would at once follow that any act was 'permitted' (in virtue of the principle) until it became (by enactment) forbidden.

In his discussion von Wright is concerned to use the normativeness of the nullum crimen principle, as expressed by the quoted characterization of it, to argue against any suggestion that the principle (as opposed to the alleged example of weak permission) supports 'the idea that permission consists in mere absence of prohibition',[59] as it would if it were 'a logical principle to the effect that whatever is not prohibited is thereby ipso facto permitted'.[60]. As we have seen , the idea he wants to combat is the idea that all permissions consist in the mere absence of prohibition; there remain, in his view, some permissions which do consist in the mere absence of prohibition, namely those weak permissions illustrated in the quoted passage. The description 'a permissive norm with a peculiar content' implies therefore (if it is to be relevant to this issue) that the import of the nullum crimen principle is that its instances are strongly permitted, or at least subject to (a permissive) norm. But he fails to apply the conclusion of his nullum crimen section back to his weak permission section and so misses that the legal example he relied upon to distinguish weak permission from strong permission actually falls under the nullum crimen principle as he interprets it. For the generality of the principle must inevitably mean that it pervades all the nooks and crannies of an authority's jurisdiction, leaving no acts free from norm to go into the weakly permitted category.

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[59] NA p. 87.

[60] NA p. 193.

The only other candidates left over for 'weak permission' would then be deeds done outside the system's area of jurisdiction, say in a country other than that of a certain legal system. But these, while not indeed forbidden under any ruling of the system, will not do either, since an authority can hardly presume to claim that acts beyond his jurisdiction are in any sense permitted by him.[61]

This leaves us with the following choice: we may conclude from the fact that the legal example falls under the principle that it is a case of strong permission, or we may turn the argument around and accept that, because the example satisfies the truth-conditions for 'Not (FA)', the nullum crimen principle under which it falls is not, after all, 'a permissive norm with a peculiar content'. Of course, an authority could promulgate a ruling permitting 'the "sum total" of all acts and forbearances which are not already forbidden',[62] and then there would be in force a 'permissive norm with a peculiar content' - in the familiar, speech-act-derived sense of 'prescription-norm'[63], one which would make the legal example an ordinary strong permission of no special significance. If, however, this new development is premised, more interestingly, on an unpromulgated 'norm' closing the gaps in a (legal) system - which means (in terms of the distinction just drawn) a rule or principle[64] - the result cannot be a strong permission; for so far as concerns the authority and his prescriptions, the truth of 'Not (FA)' [and of 'Not (PA)'] will just not be affected by the principle being in operation in the system concerned.

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[61] Von Wright's speaking (NA pp. 86, 87, 88) of "all human acts" may indicate a contrary view; but most areas of jurisdiction would defeat attempts at an exhaustive inventory on their own, if only through the possibility of new types of act arising within their borders.

On this alternative the nullum crimen principle, under which the example falls, cannot be taken as 'a permissive norm with a peculiar content' for any prescriptive interpretation of 'norm' ; for such an interpretation would mean something to the effect that the principle emanated from the authority's will by being promulgated in some fashion. Thus on von Wright's view of law[65] the nullum crimen principle could not have the force of law until given it by promulgation; prior to that it would not be a legal norm at all, nor would its emphasized normativeness be on a par with what is to be found within the legal system.

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[62] NA p. 87. 'Already' here should be taken as 'otherwise', lest the principle require cancellation or modification of its scope each time a new prohibition is issued.

[63] Cf. chap. 5, pp. 118-9 above.

[64] I find it impossible to decide whether von Wright thinks that the operation of the nullum crimen principle presupposes some sort of enactment or not - the passage can be read either way.

[65] Cf. p. 228f above.

It is, however, still compatible with a will-theory of law that the nullum crimen principle should operate (strictly speaking) outside the legal system, as a principle of justice restricting the application of sanctions to those who 'trespass against the law'. The principle is then, in the moral form in which Hart, for example, interprets it, better worded '*nulla poena sine lege*', since its main practical import is a condemnation of retroactive punishment.[66] (Von Wright notes this wording in passing but interprets it in terms of a limitation on 'the authority's right to punish'[67]; that is, rather than classifying the principle, whatever its origin or precise status in the legal practice of one place or another, with the other rules out of which Hart's much more flexible picture of the main body of law is built,[68] he traces the limitation to a legal and so (for him) prescriptive source.) Notice, however, that there is nothing particularly permissive about the reworded version of the principle. Indeed, its import is primarily prohibitive on the punitive actions of authorities, restricting these to within the bounds of their jurisdictions. As for subjects - they already have the immunity correlative to their authorities' disability or lack of power to bring charges other than for an offence, and this correlativeness explains how a merely logical version of the principle, to the effect that authorities do not have punishment powers beyond those they have, is still not without practical importance.[69] If anything more is needed to protect their enjoyment of this immunity, it is not some added permissive freedom in the sphere of their own behaviour but, quite simply, adherence by the authorities to the restraints of legality, as required by the nulla poena sine lege principle.

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[66] *The Concept of Law*, op. cit., p. 207.

[67] NA p. 87; cp. NA p. 193.

[68] Cf. e.g. H.L.A. Hart, *loc. cit.*, p. 97ff.

So neither in the legal example nor in any other case of an act not assigned normative status by an authority with the requisite jurisdiction is there any permission, weak or strong, to be appealed to in defence against prosecution, retributive action, etc. It may well be thought unjust, socially inexpedient, or morally impermissible to take punitive measures in such cases; but this does not show that the gaps left by authority non-action are or should be filled by surrogate permissions. It reveals, rather, that the need for dealing with such gaps is an important aspect of the way in which the practice of authority-subordinate institutions impinges upon the lives of their participants.

Thus, retroactive punishment may occur on occasion without necessarily being arbitrary or unjustifiable.[70] Further, the beliefs and attitudes which discourage it so strongly in the administration of the law do not carry as much weight in, say, schools or families, where the moral development of the young is part of the aim which prescriptions and rules are designed to promote. That being so, something that a child 'ought to have known better than to do' can appear a fit cause for his punishment, even if no prohibition against it is in force - hence the difference between the legal and parental cases. (No general policy need be involved, nor an alternative gap-closing principle[71] - a piecemeal approach may be quite rational, if not preferable.)

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[69] See Hohfeld, Fundamental Legal Conceptions, op. cit., pp. 36 and 60ff.

[70] Cf. H.L.A. Hart, The Concept of Law, op. cit., p. 207.

A more extreme contrast to the legal situation than an ordinary family or school ambience is provided by the convent setting of the father's visit in the passage from Henry James which heads my Introduction[72]. There the 'system' is said to be that 'for everything they must ask leave' - a description which suggests a customary procedure, conformity to which is expected and exacted case by case, rather than an explicit enjoinment in general terms by which each new entrant becomes bound. It could hardly be otherwise, in fact, since although the girl shows her consciousness of the omnipresent supervision of which that exaggerated 'everything' is so expressive, to put the principle into literal practice would be impossible.[73] Hence the 'system' could not be administered without 'retroactive' punishment to determine by example and precedent just how narrowly the limits of spontaneity were to be circumscribed. 'Everything is forbidden until specifically permitted' might serve well enough to summarize for the girl's father the strict, if benevolent, regime; but to punish or reprimand behaviour simply for formal infringement of the principle, with no further justification than that permission had not been requested and regardless of the sort of behaviour in question, would turn discipline into an arbitrary tyranny. Such measures would need rather to lean heavily for their justification on the considerations of morality and 'good conduct' implicit in appeals of the form 'You should know by now not to do that without asking leave', a method the systematic practice of which presupposes an institution markedly different from the modern 'liberal' state, where '*nulla poena sine lege*' is conceived to be a fundamental principle of social justice and which, unlike a convent boarding school, does not take upon itself as its *raison d'être* the moral development of its subjects.

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[71] Such as those discussed NA pp. 87-8.

[72] P. 1 above.

[73] Cp. NA p. 88.

It will be remembered that the passage quoted[74] was designed primarily to establish the non-identity of ordinary permission and the (mere) absence of prohibition. In that aim it could hardly fail, especially given the assumption, evident throughout, of (B). But it was not so successful in its further endeavour to preempt the notion of the absence of prohibition for a position of secondary importance under the title 'weak permission', since, whether or not any permission is as strong as von Wright says most of it is[75], none is as weak as he claims some to be if this chapter has been right to contend that the inference from the bare fact that Not (FA) to there being some sense in which A is permitted rests for its plausibility on the support of an 'umbrella' principle such as nullum crimen. Even then, I argued,[76] the conclusion to be inferred yields a case of permissibility, not a permission, so that the nullum crimen principle turns out to by-pass altogether the interdefinability problem on account of which it exercised von Wright[77]. The upshot of the foregoing discussion is that neither the principle nor the concept of weak permission is available - since neither is applicable to permissions - to explain the appeal of such dicta as 'It is obligatory to do that which we are not allowed not to do'.[78] Several aspects of the relation between the presence of permission and the absence of prohibition remain, therefore, still very much unresolved.

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[74] Cf. p. 212 above.

Take, for example, the general practice of understanding deontic sentences in an implicitly relativized form. As they stand unadorned in the square, 'A is (not) permitted' and the rest lack any phrase explicitly referring to the authority such as I have included as intrinsic to (B).[79] So is it the case that the truth of a negative formula of the form 'Not ...A' is compatible even with the world lacking authority-subordinate institutions altogether? This is what the requirement that a deontic proposition and its negation should be jointly exhaustive might seem to entail. Yet the question is a sort of nonsense, for it poses, in deontic language, a query about the negation of conditions on which the very possibility and meaningfulness of deontic language itself depends - it is like asking if there could be a society where one was not put under obligation by making a promise. (Anarchy does not, of course, mean the absence of rules, but to describe rules as enjoining, permitting, or forbidding is to talk *as if* they were authorities, capable of speech.) The *minimum* presupposition for the use of deontic sentences from the square is thus the existence of subordination to authority as such.

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[75] Cf. chap. 5, p. 115f above.

[76] Cf. pp. 224-5 above.

[77] Cf. p. 231 above.

[78] Cf. p. 201 above.

[79] Cf. p. 200 above and chap. 5, p. 114.

Remote as the possibility of an entirely authority-free world may appear, it must be excluded as a truth-condition for negative deontic propositions - not because the possibility could not be realized, but because the meaningfulness of the sentences under investigation presupposes that in fact it isn't. This means that the verb-forms 'enjoined/prohibited/permitted' somehow carry with them a 'by ...' clause, an additional element of meaning in the sentence which may remain implicit in the context of utterance but cannot be absent from it altogether, it being a condition of understanding the use of deontic sentences that one be able to supply some sort of filling for the gap. That is, in the abstract the sentences of the square are incomplete, awaiting partial determination of their content under the influence of whatever presuppositions direct the particular act of communication.

There is no reason to tie every deontic proposition just to a single minimum requirement ('by some authority or other source') or to disallow explicit and implicit reference to a specific authority, M. The sentences can be used with 'by some authority or other' as their supplement, though it would be neither interesting nor plausible to defend an inference from 'A is forbidden by some authority' to A is not permitted by any authority' or vice versa, as would be necessary for a square quite general with respect to authorities. But if the subject is the deontic situation in an authority-governed area, what is understood in the context is normally 'by authority M', even if the identification of the intended authority made by the (usually implicit) supplement is as vague as 'the authority with jurisdiction over smoking in trains'.

Outside Kafka, after all, people are fairly well-equipped with information on what activities are under the jurisdiction of what authorities, so that even when (as can frequently happen) they are ignorant of what has been laid down for a given activity, they know or can more or less easily find out which authority it is relevant to ask about in connection with that activity, just as they know, more or less accurately, when it is advisable to find out before acting. The extent of such background knowledge is scarcely surprising in view of the fact that the rulings whose results one needs to know are essentially linguistic acts of communication. But it is important that knowing which results are relevant to which situations is a matter of knowing which authorities' rulings derive from the exercise of a legitimate jurisdiction over the situation, for it follows that even if in deontic discourse, as in other fields of communication, not everything needs to be said overtly, one of the things it is important to have clearly understood in contexts where it is not announced explicitly is the identity of the relevant authority. Hence if it is the general practice to leave this a tacit presupposition, it must be in virtue of everyone's possessing the necessary background knowledge.

Another necessary but similarly unobtrusive part of our equipment of background knowledge is acquaintance with the procedures different authorities are likely to adopt for ruling on given sorts of action in certain places. This helps us to tell whether an authority with jurisdiction in a certain matter has actually ruled on it as yet or not, though a natural consequence of its possession is a tendency to assume, when he has not issued a ruling in the expected manner, that his silence is deliberate, indicative of a permissive or prohibitive attitude. Which of these we assume depends on the context and our knowledge of such conventions as, for example, those concerning whether it is the presence or absence of a notice which is indicative of authority action. Thus, things being what they are on British Railways today, if there is no notice about smoking in a railway compartment, passengers know that railway officials have permitted smoking there. But once upon a time when ladies had finer sensibilities the situation was the reverse of the present one: only carriages where smoking was permitted were marked out by an explicit notice - authority silence does not automatically indicate a permissive attitude rather than a prohibitive one. Nevertheless, in so far as we tend to assume that the authority has taken a stance, one way or the other, that is that any matter which we know to be under his jurisdiction *and likely of concern* to him (and so to us as his subjects) is either permitted or forbidden but not neither, we are effectively ruling out as a possibility the one truth-condition which would allow 'A is not permitted' and 'A is not forbidden' to be true together, namely non-action by the authority implicitly referred to.

But 'assumptions' and 'tendencies' of this kind could show only that what gets spoken of as a thing one is not permitted not to do is *liable* to be, or may be *assumed* to be, obligatory. Any effects they may have on the way we operate with the sentences of the original square should apply with no less force to sentences of a cast rather nearer to the bracketed formulae in that their subjection to the disjunctive truth-conditions for the negative case is more apparent. Such, for example, are the sentences (for this very reason comparatively more stilted) which are von Wright's preferred ordinary language translations for 'NOT OA', 'Not PA', etc.: '*There is* not a permission to open the window' or 'No such permission has been given and is in force', 'There is no prohibition/permission/order to the effect that p must not/may/ought to be done'.[80] But precisely because of its emphasis on the disjunctive truth-conditions, this 'existential' phrasing, which von Wright tends to treat as the most perspicuous mode of representing a deontic situation, would deprive the square of much of its appeal.[81]

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[80] NA pp. 137-8; cf. NA p. 154 and NA p. viii quoted chap. 5, p. 118 above.

In its most uncompromising form this reading of the formulae would be so 'absolute' as to make any reaction to the paradox other than the acceptance of (B) and rejection of (A) seem absurd. The difficulty would rather be to understand how anybody, even in the course of ordinary conversation and even given explicit mention of an authority, could ever find the slightest plausibility in the inferences licensed by the square's equivalences. For every such inference would violate the elementary truth that, whether the subject matter is permissions and prohibitions or lions and unicorns, 'the existence of a thing of a certain kind does not follow from the non-existence of things of another kind'[82]. Thus, strictly speaking, from the non-existence of a permission to do A it should not even follow that there exists an authority who does or might have jurisdiction over A, still less that a prohibition against A is in force.

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[81] His use of such language is, of course, 'philosophic jargon invented for special purposes' (NA p. 195, noted above chap. 5, p. 130). Even so, his treatment of the interdefinability problem may be influenced by it. On the other hand, the 'must' and 'may' locutions which the 'existential' sentences are supposed to analyze tend so strongly to the opposite extreme that 'If A may not be done, it must not be done' is acceptable without qualification as the statement of a logical entailment holding in virtue of the idiom by which 'not' goes grammatically with 'may' in the antecedent but with 'be done' in the consequent. So Otto Jespersen (The Philosophy of Grammar, op. cit., p. 329 fn. 1) vs. NA p. 137, where the fact—surely decisive for a point of this nature - that special emphasis is needed to avoid a prohibition-implying version of 'may not' is ignored. This may serve to confirm that sentences involving the deontic auxiliaries 'may' and 'must' are not mere synonyms of sentences formed with active or passive speech-act verbs , as was argued above in chap. 5, pp. 142-154 in countering von Wright's 'characteristic ambiguity'.

[82] W. and M. Kneale, The Development of Logic (Oxford: Oxford Univ. Press 1962) p. 58.

Yet in many cases inference from negative to positive, or to its basis in the presupposition that the authority has acted, is so evident that it may be scarcely intelligible to suggest that the reason why a statement of the form 'A is not permitted' (or 'A is not forbidden', etc.) is true may be that the authority has not acted with respect to A. It is surely inconceivable that anyone in a railway compartment should take a notice saying 'Smoking is not permitted' as anything but tantamount to 'Smoking is forbidden'. The problem, then, is to know exactly why.

An obvious consideration is this: the mere fact that the sentence appears on a notice in an area known to be under the jurisdiction of a certain authority excludes the possibility that what it says should be true because the authority has not defined the normative status of A. To post a notice is to take action, to put oneself on record as having ruled that, for example, 'PA' be false and 'FA' true. This does at least indicate that the reason a notice with the words 'Smoking is not permitted' on it constitutes a ban on smoking is not, as Mayo claims, that 'it is only in virtue of a convenient idiom that "not permitted" means "forbidden"'[83], but that to read something as a notice is to read it as a 'speech-act', an adequate understanding of which involves certain pragmatic considerations: namely, the recognition of it as the publication of a ruling and hence the rejection of authority non-action as a possible truth-condition for what it says. It is not an idiomatic meaning but the palpable presupposition of authority action which carries the reader from the non-existence of a permission to the existence of a prohibition.

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[83] 'Varieties of Imperative', op. cit., pp. 170-1, my italics; contrast the genuine idiom which equates 'may not' and 'must not' (p.243 fn. 81 above).

On the contrary, it is when a speaker wishes to avoid giving his hearer to understand that the normal presuppositions hold that he has to resort to special idioms and 'special effects' devices, as when Mayo writes 'I permit somebody to walk in my garden, but it is not the case that I permit him to walk on the public highway' and apologizes in a footnote for using the 'broken reed' 'It is not the case that...'[84]. In fact, the use of this particular 'broken reed' as a special device to force the reader to dismiss the prohibition truth-condition in favour of the non-action one is heavily dependent for its effectiveness on assistance from the rest of the context.[85] Rather more common is its employment, especially in the ordinary language of philosophers, as a negation prefix which preserves a benevolent neutrality over possible pragmatic implications;[86] it is as such that I shall be interested in it.

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[84] He attributes the need for the 'broken reed' to the fact that 'I do not permit' is 'idiomatically' understood as 'I forbid'(ibid p. 169). Quite so.

[85] In Mayo's own case, preeminently (a) the invitation to consider an example, first of what I do permit, and next of what I do not - in the sense, simply, as appropriate to a philosophical example, that it would be false to say I did; and (b) background knowledge of the legal differences with regard to trespassing, etc. between gardens and public highways.

So here are at least three types of ordinary language sentences, each able to translate 'Not PA' and the other formulaic negative 'sentences' (which for formal purposes are kept pure of context-dependent factors) so far as concerns the relevant truth-conditions (including non-action, of course), but which differ among themselves as to the 'uses' which make them appropriate in different sorts of context for rather different purposes: (i) 'A is not permitted', (ii) 'There is no permission for A in force', and (iii) 'It is not the case that A is permitted'. No railway official would use the second to demarcate a no-smoking carriage (lest it lead to puzzlement about whether there was a prohibition or no ruling at all on smoking), and if he tried out the third he would be sure to find some smoker ready to argue that there was nothing in the carriage to say that smoking was definitely forbidden. Type (iii) corresponds in its freedom from contextual implications to the unannotated symbolic formulae, and so should perhaps be adopted for their interpretation; (ii) I judge to be more like the bracketed notation - if anything, hostile to inference from negative to positive. (i), and (i) alone, it would seem, is normally the vehicle of the implication which was artificially built into the meaning of the hyphenated expressions.[87] So it is not just the fact of appearing (being asserted) on a notice which is responsible for the prohibition-implications of 'Smoking is not permitted'. The notice merely guarantees satisfaction of the condition of authority action which the words already implicate in their own right. The words do matter (whatever else does) - a notice would not do quite the same for the other sentences.

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[86] Cp. my own 'It can be false that A is permitted...' on p. 202 above.

[87] Cp. above pp. 207-10.

The search for explanation may therefore turn to a more formal distinguishing feature of the three types - the position of the negation sign and the mode of negation it signifies. For an analogue to the ordinary predicative mode of negating a deontic proposition, compare the application of the description '...has not returned from work' in the two situations outlined below:

(1) Fries went to work today and has not returned. On seeing Mrs. Fries, Grillo (a debt collector) asks whether her husband has returned from work. 'No, he has not', she replies.

(2) Gilmore has not left the house today. (Hence it is a fortiori true that he has not returned from work.) On seeing Mrs. Gilmore, Grillo asks whether her husband has returned from work. 'No, he has not', she replies.

Whatever Fries has done since going to work, none of his actions has comprised a return from work. Still, he could have done so, for being, as he was, at his place of work he had an opportunity to return from there. But whatever acts Gilmore has performed today, none of them could be a return from work. This lack of opportunity makes it highly inappropriate to say without qualification that he has not returned from work. 'Appropriateness' has, of course, to be explicated with reference to utterances which are sincere, truthful, information-giving, etc. The fact that 'Gilmore has not returned from work today' is inappropriate from that point of view is precisely what makes it appropriate as a means of deceiving the debt-collector. Mrs. Gilmore can exploit the normal presupposition in order to suggest to Grillo (without actually saying so) that her husband is not at home, because his not in fact having left his fireside is, necessarily, a possible truth-condition for 'Gilmore has not returned from work'. But its not holding is a presupposition behind Grillo's question, which could not even have been appropriately asked if he believed that Gilmore had not gone to work at all.[88]

Given notations for negative expressions analogous to those introduced earlier (with having gone to work a necessary condition for the truth of 'Not-returned', and so on), Gilmore's situation could be expressed as 'Not (returned from work)' and Fries' as 'Not-returned from work'. The interrelations and connections of the two forms of expression parallel the deontic case: the description 'Not (returned from work)' is true of both Fries and Gilmore, but only of Fries is 'Not-returned from work' also true.

This bracket-hyphen distinction is, as before,[89] not an attempt to establish an ambiguity in the meanings of the relevant sentences, but a way of making clear and explicit the oddity of 'Gilmore has not returned from work' as referred to an occasion when Gilmore has not gone to work. True though the statement is, it is misleading without qualification or alteration sufficient to rebut the presupposition of the question's use of 'has returned from work'. 'No, he hasn't *returned* from work, but that's because he hasn't left the house', or perhaps more typically, 'My husband's home, if that's what you mean (ignoring the inapposite question altogether, since neither a 'yes' nor a 'no' answer will do) - these would be acceptable ways of replying because this is how ordinary language makes the hyphen-bracket distinction: instead of specially designed negation-operators, use is made of a wealth of different emphases and periphrases.

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[88] Compare here, and in general, the fragments of conversation discussed in chap. 2, esp. p. 32 fn.8.

[89] Cf. p. 202 above.

Now a normative example. Eliot, a commercial traveller, gives Susan Spar a lift to the next town in his car and in the course of conversation remarks, 'I should have thought that your parents would have forbidden you to hitch-hike - it can be rather dangerous, you know'. The reply is, 'Oh, but honestly, they haven't!' Susan is speaking the truth - simply because her parents have never mentioned the matter, it not having occurred to them that she would do such a thing. Of course, like Mrs. Gilmore in the previous example, Susan must know she is not, in fact, being honest. If that were her aim, she would have qualified her answer to 'They've never *forbidden* it, but then, you see, the subject has never come up - lucky for me as I'd have to spend my allowance on bus fares'.

What is common to these examples is that without the satisfaction of certain logically *enabling* or *opportunity-making* conditions (the man's having gone to work and the authority's having taken normative cognizance of the act) the (true) negative statements *could* not, as a matter of logic, convey any but the most patently trivial information: no hearer who knew that Gilmore had not gone to work, or that the Spars had not spoken to their daughter about hitch-hiking, could regard them as worth receiving, while anyone not aware of why what was said was true is liable to be misled by the omission of the actual explanation. Exclusion of one possible truth-condition is therefore a prerequisite of the negative statements not degenerating into triviality on the one hand and deceptiveness on the other, and as such is a requirement of conformity to the rules and social pressures against these faults in speaking.

The basis of the presupposition associated with the ordinary predicative mode of negation is thus an implication that the issue is a live one in the sense that the enabling conditions for an affirmative statement to be correct are satisfied even if it would in fact be false. A report of the deontic situation given in this mode implies, in virtue of the speaker's choice of a type (i) over a type (ii) or (iii) sentence[90], a certain explanation of why it is true. It may be guessed that the difference between (i) and (iii), at least, is a quite general phenomenon affecting negative sentences throughout the language, with each mode of negation living, as it were, off the contrast with the other as to the pragmatic connections which determine when it is appropriate to use them. The square, certainly, has to be understood as making claims about ordinary language sentences of the type (i) form if its relations of contradiction are to license legitimate pragmatic inferences, according to the 'middle way' out of the dilemma of the paradox.[91] The pragmatic rather than logical nature of these implications in no way releases speakers from the commitments they involve. Part of the force of claiming that the implications and presuppositions which can make statements misleading or inappropriate in certain specific ways spring from rules which are binding on speakers of the language is that no speaker can prevent (though in some cases he may be able to put in a disclaimer to counteract) the fact that certain of his speech-acts do carry them; in such respects it is no more up to the speaker to decide what implications his saying that p is to have, than it is up to him to decide what p is to mean or entail.[92]

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[90] Numbers p. 246 above.

[91] Proposed pp. 209-10 above. It may be of interest to append an attempt to relate my analysis to the concepts employed by H.P. Grice, 'The Causal Theory of

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Perception', op. cit.: -

The difference between the implication dealt with in chapter 1 and that just considered is closest to that between Grice's fourth and second types of implication: namely, between the ways in which someone who says 'My wife is either in the kitchen or in the bedroom' implies that he doesn't know which of the two she is in, and in which someone who says 'She was poor but she was honest' implies that there is some contrast between poverty and honesty. In his terms, the 'vehicle' of the implication to 'P Not-A' is the speaker's saying that PA and no more, not the particular words he uses nor the proposition he expresses. This implication is not cancellable (adding 'but I don't mean to imply that P Not-A' changes the scope of the assertion), and as to 'detachability', there is no way of making that same assertion in normal contexts which doesn't carry the implication; for no special context is required to attach it to the assertion, only a general principle governing the use of language (the rule against understatement) - though a special context (e.g. where it is understood that 'OA' is true) may detach the implication. By contrast, this chapter has to do with an implication the carrying of which is associated with a particular mode of negating sentences, which is detachable by using a differently constructed negative sentence under the same truth-conditions, and which is cancellable with the help of special emphases and the like (as illustrated on p. 249 above).

[92] Cavell, 'Must We Mean What We Say', op. cit., pp. 82-5.

Normally, then, if an act can be appropriately (as well as truly) described as one it is not permitted to leave undone, it may be safely classified as enjoined, while freedom from prohibition in such circumstances is an assurance it is permitted. Since 'PA' and 'Not FA' are so close that only this presupposition of normative action is needed to make the inferential guidelines of the square trustworthy, the sense which the rejection of (A) ought to give the distinction between permission and the absence of prohibition[93] is one which concedes the minimum necessary to account for the fact that the negative reports do, as the positive do not, allow for authority non-action, while the positive do, as the negative do not, allow for inconsistency. And the elimination of these two conditions, or at least of non-action (since consistency can be left optional[94]), is necessary and sufficient, as the hyphen experiment has shown, to align negative with positive formulae in a unified square. For what the hyphen signified was precisely the absence of something from a (presupposed) deontic situation[95], like the absence of prohibition which constitutes a case of freedom under authority.

Now apart from acts an authority has explicitly permitted, there remain unprohibited within his jurisdiction 'uninvented' or 'uninventoried' acts, as much beyond the reach of his detailed ruling utterances as those outside his jurisdiction and so bound to be passed over by them, and acts belonging to the more conspicuous subclass which are undefined despite his knowledge of (the possibility of) their being performed. But whatever the reason why, the fact that they have not been ruled upon is all their being undefined (including the absence of prohibition) consists in.

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[93] Cf. p. 201 above.

[94] As on pp. 203-4 above.

[95] Cf. pp. 207-8 above.

That indeed is all being undefined by the authority, as such, ever means, since only normative action in the appropriate manner can further the development of the general deontic situation. So, whatever the authority's attitudes or non-normative behaviour, the difference between the absence of a prohibition and the presence of a permission can be neither more nor less than is introduced into the situation by the normative action responsible for the changeover, namely the difference between the truth-conditions for 'Not (FA)' and those for 'Not-FA': an absence of prohibition is an authority's not having forbidden A, whatever the reason, while 'PA' describes what issues from an utterance which has as its immediate point and purpose, qua permission, that A shall not have been forbidden as a result of it. That is, the interstices which an authority maintains free of normative obstacles are areas of freedom from prohibition just like those of which he is unaware, except that the absence of normative obstacles from the former is due to the authority's having overtly refrained from exercising his entitlement to introduce them.[96]

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[96] See chap. 4, p. 98ff and chap. 6 passim for the view that permission is an essentially negative concept, not just correlatively to, and no more so than, its opposite, prohibition (which, as the absence of an absence, remains, of course, as positive as could be desired - cp. chap. 6, p. 175 above).

Thus a state of affairs describable as A's not being forbidden may obtain either through the commissions or through the omissions of the authority, but neither origin impairs the essentially negative nature of the result, its character as the absence of any external, conventional bar to action. The 'freedom' conferred by a permission extends no farther than this negative state of affairs, and does not even guarantee clearance of normative obstacles left by past, or threatened by future, rulings; still less does it implicate its donor in any further actions or attitudes of matching leniency. There is no need to fill out the state of affairs itself, only to identify it as an absence of prohibition which an authority has overtly refrained from changing. For the existence and activity of the authority is sufficient to rescue as much of the original interdefinability as could be hoped for. Nor, in view of the primacy of the performative use of deontic language as the source of the meaning and truth of the propositions expressed in the reportive use, should any interdefinability independent of that source be desired.[97] Permission is not the absence of prohibition as such, but it is an authority's maintenance of such an absence.

This is not just a verbal distinction. True, 'absence of prohibition stemming from authority action' is not a 'mere' absence, in that it implicates the authority in having granted a license. But 'license', or some similar word, is what expresses the import of his intervention: if there has occurred a ruling under which A is permitted, there has occurred a ruling - but its primary function while it remains in force is to determine that A should partake of the same freedom from prohibition under the authority as it would if it were not within the authority's governance at all. It is because refraining from forbidding is negative not only in its own character but also in its result that to have a permission is to enjoy a certain sort of freedom.

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[97] Cp. chap. 5, p. 117 and chap. 6, p. 157ff.

PART III

Permission, Permissibility and Practical Possibility

Preface

> If von Wright's deontic logic were to be tried out on moral discourse, we might find ourselves surprised at the rarity of permissive concepts in ordinary moral contexts...and quite rightly so if, as I have argued, there are no such rules [sc. as permissive moral rules]. And there is quite a scarcity of expressions for saying what a man morally *may* do. We have to get along with clumsy expressions like 'It wouldn't matter morally' or 'morally indifferent'. (Bernard Mayo, 'Varieties of Imperative', *op. cit.*, p. 174.)

I had hoped that this work would issue in conclusions confirming the interest and importance of the concept of (especially moral) *permissibility*; so it is with regret that I must record my basic agreement with Mayo's remarks. Indeed, in certain respects the study of deontic discourse in authority-governed areas of action turns out to lead to a position even more radical than his, and one which may be generalized to cover rules in many spheres besides morality.

Nevertheless, Part III's investigation of certain further aspects of permission leads to the conclusion that the concept of permissibility, even that of a permissive rule, retains a certain utility. Permissive notions derive from authority-dependent patterns a logical structure alien to the non-authority fields of their application; but they can be used pointfully under conditions sufficiently analogous to those defined by the authority model, while in some special circumstances they can be regarded as making a genuine contribution to certain types of freedom. Yet in the last resort their status is more negative, more secondary even than their prototypes.

Chapter Eight

Permission and Toleration

The problem of permissive rules and regulations could be raised as a fundamental objection to the tendency of this study to emphasize the negative and the conventional in permissions:

> It seems clear that neither doing A nor doing Not-A will violate a rule stating a permission. On the other hand, a rule which cannot possibly be violated would seem a strange kind of rule since it would appear to be *without any normative significance*. If it is to be a rule regulating conduct at all, it must be possible to distinguish actions constituting violation from actions constituting observance.[1]

Thus Tranøy - presupposing in the very statement of his problem the idea that a rule or regulation *stricto sensu* must be something action can violate or conform to. But

> If it is analytic that rules can be conformed to and infringed, then permissions are not rules. Rather, they seem to be assurances about the scope of other rules, namely prohibitive ones.[2]

This is the conclusion drawn, from much the same interpretation of 'rule', by Mayo, who considers that 'a "permissive rule" is a general dispensation, under general conditions, from a rule which otherwise applies'; such 'exemptions' should be regarded as 'licenses rather than rules'.

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[1] Tranøy, 'An Important Aspect of Humanism', *op. cit.*, p. 42, my italics; since Tranøy is using the concepts and symbolism of DL, it may be presumed that the mark of a *rule*(-utterance/-statement/-sentence/-formulation) is its generality as to time and/or persons (cp. NA p. 83 and chap. 7, p. 223ff).

[2] Mayo, 'Varieties of Imperative', *op. cit.* pp. 171-3; cp. also his 'Rule-Making and Rule-Breaking', *Analysis*, Oct. 1954, p. 23.

Neither Tranøy nor Mayo gives permissiveness a chance:their 'strict' notion of a rule leaves, for noting and assessing a rule's 'normative significance' for some action, nothing but the verdicts 'wrong' and 'not wrong' - a pair of truly *exhaustive* contradictories applying to every action according as it is or is not at variance with the rule.[3] To expect permissive rules to divide their domain of application into infringements and non-infringements is to demand that they not be *permissive*, but rather that they require some action as necessary (the only alternative).[4]

So it is not surprising that Tranøy, starting from a notion of 'free permission' definitionally equivalent to 'Not FA . Not F Not-A' - which evidently specifies no line dividing what infringes from what does not and could never, *by itself*, acquire the status of a rule-formulation - and seeking for it a 'new kind of definition' with clarificatory powers lacked by the formal expression 'PA . P Not-A' (in terms of which it was introduced and criticized in chapter 2)[5], resolves his difficulty as follows:

> We have to go beyond the actions A and Not-A to solve the problem. For it would seem reasonable to say that I can violate the rule 'A is permitted' (where 'permitted' refers to a free permission), first, by *preventing another person*

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[3] See Mayo, 'Rule-Making and Rule-Breaking', *ibid* and *Ethics and the Moral Life*, *op*. *cit*., p. 30, p. 200ff.

[4] Cp. chap. 5, pp. 155-6 above.

[5] Cf. Tranøy, 'An Important Aspect of Humanism', *op*. *cit*., pp. 39-40 and chap. 2, pp. 28-9 above.

> *from doing A*, and, secondly, by *forcing another person to do A against his will*. If I am in a smoking compartment, I shall be entitled to object if somebody tries to prevent me from smoking or if someone forces me to smoke. I should be justified in denying his right to do any such thing as long as I am in a compartment where smoking is neither obligatory nor forbidden.
>
> It seems to follow that if an action A is permitted without being obligatory, then it is *forbidden to prevent* the performance of A, and it is also *forbidden to enforce* the performance of A. It will also be seen that it is then *obligatory to tolerate* or not to interfere with the performance of A, that it is obligatory to let whoever comes under the permission do A or Not-A as he pleases.[6]

Yet, given his initial definition, it is difficult to see how Tranøy could, as he claims, reach a 'principle of the logic of permission' whereby a free permission '"generates" new prohibitions and obligations on a new level of action, as it were'[7]. And merely *adding* an obligation to tolerate, while always possible, would scarcely show 'PA . P Not-A' to be *itself* or to require as a logically intrinsic appendage, the statement (formulation) of a rule in the sense imposed by Tranøy's terms of reference.

It may still be felt there would be no content to a permission if giving it did not, in some sense at least, *involve* the authority in (an intention of) ensuring or guaranteeing some more substantial freedom than would ensue from the etiolated concept which has emerged from Parts I and II.[8] And with rules, where the speech-act component is lacking[9], the prospect may seem especially daunting unless Tranøy's principle can be saved in some form. For Mayo's exemptions do not (as defined) even belong to the class of permissions 'to do an act which, without such permission, would amount to a trespass'[10]. Indeed, they would hardly be worth mentioning at all unless those not fortunate enough to be exempted on the grounds specified therein still laboured under some ban. Otherwise, the act would just be unprohibited for all concerned.[11]

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[6] *Ibid*, p. 42, elucidating what he calls 'straight permissions' (= the rights of NA's terminology) *as opposed to* rights = claims, which are what NA calls rights 'in the *stronger sense* of a claim' (NA p. 89, my italics; cf. chap. 5, pp. 115-6 with fn. 9 above). 'Prevention' means compelling inaction on some occasion, making successful performance impossible, rather than *disabling*, even temporarily - see *ibid*, pp. 43-6 and cp. NA pp. 54-5, p. 120ff, p. 205.

[7] *Ibid*., p. 42.

However, the main thesis of Part III[12] is that permissibility is to be understood in terms of permission, not vice versa, that the basic findings on permissive language as used in authority-governed areas can be applied to rules to the extent that these can be spoken of as if they were authorities, capable of speech. So this chapter will continue, so far as possible, to retain the security of a base in the familiar transactions of recognizably human authorities and their subordinates, with the aid of the following device.

The simplest context for performative deontic discourse is a face-to-face interchange in which authority addresses subject as to some particular once-and-for-all eventuality. Suppose, however, a second subject is present, and the first subject is told to give the second something, or to start treating him with more consideration - in certain circumstances there would be an inclination to speak of a right having been granted (no doubt in a very informal way) to the second against the first, entitling him to expect, claim, protest to the first subject about omission of, etc. the treatment imposed upon him as a duty towards another. This would be a very simple case of an authority ruling upon social relationships within his jurisdiction, corresponding to the way many rules, whether devised by authorities or not, serve as much to regulate relations between the subjects under jurisdiction ('horizontally'), as between these and the authority/the rules ('vertically'). But increase the number of subjects involved, the distance of communication, the indirectness of methods of address, the generality of the rulings both as to type and the times of action - and it should be possible to reproduce many of the complexities even of a legal system in the form of a code of conduct issued, maintained, and administered by the 'monarchical' boss of a large multi-faceted organization. Such an organization (a rough likeness, at least, of a legal system as conceived by von Wright[13]) may be relied upon to supply any necessary background details for the following arguments, which aim to show that neither Tranøy's obligation to tolerate nor von Wright's 'mere'[14] toleration can render satisfactorily the concept of permission, still less of permissive rule. The main argument will be against toleration as such, since its import for rules is an identification - plausible but incorrect - of the permissible as a species of the possible.

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[8] Cp. chap. 5, pp. 155-6; chap. 7, pp. 253-5 above.

[9] Cf. chap. 7, p. 223ff above.

[10] A legal definition of 'license', quoted Hohfeld, Fundamental Legal Conceptions, op. cit., p. 507.

[11] Cf. Mayo, 'Varieties of Imperative', op. cit., p. 170 and chap. 4, p. 98 above; cp. chap. 7, pp. 249-52, p. 254. Note the difference between a rule which does (p. 258 above) and one which would (here) otherwise apply.

[12] Cf. Preface, p. 256 above.

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[13] Cf. above chap. 7, p. 228f; cp. chap. 4, p. 95 fn. 14.

[14] For the denigrating qualifier, contrastive mainly with an obligation to tolerate (a right), see e.g. NA p. 90, p. 206. The last still concludes, however, as the book's final verdict: 'Permissions as "mere" tolerations have a normative status of their own'.

The character of Tranøy's solution may now be clarified by making the deontic situation slightly less egalitarian than that envisaged, where the railway regulations ensure complete reciprocity in the duties of tolerance - let certain persons, say old-age pensioners and asthmatics, be *exempted* from the requirement of toleration. This exemption (a typical 'permissive rule' in the sense marked by Mayo's scare-quotes) relieves the minority of the obligation to tolerate their fellow-passengers' smoking and *thereby* deprives the majority of a free permission to smoke *in the presence of* pensioners and asthmatics - replacing it, according to the 'principle of the logic of permission', with a requirement that the majority tolerate any intolerance displayed by the minority. This means Tranøy's permissive rules are just rules of obligation disguised by reporting the deontic situation constituted by their operation from the point of view of the persons *to whom* the obligation is owed. That is, the 'principle of the logic of permission' has the effect of transforming someone's enjoyment of a free permission into his being the beneficiary of *another's obligation* to tolerate his behaving in a given way, or not, at will.

But an obligation of this sort is compatible with the behaviour being *forbidden*: it is quite in order for a school to forbid pupils to inform on or prevent each others' peccadilloes, especially by violent means. So a free permission such as 'PA . P Not-A' expresses cannot even be derived from the premise that interference with a person's doing or not doing A, as he likes, is forbidden; still less can the reverse deduction be performed. The deontic status of A itself is independent of that of interference with A. From the (vertical) point of view of an authority or set of rules there are just two separate issues to take into normative cognizance.

Rights, of course, are like rules in that (on the horizontal plane) they can be both violated and respected, precisely because, even when derived from the edict of some authority, their content is social interaction rather than individual conduct. So one way of trying to fill out the content of a permissive regulation to make it more satisfactory, qua 'rule', is to turn having a permission into possessing a right - as Tranøy comes near to admitting he has done[15].

Yet a protest about intolerant behaviour does not require a right against the culprit and his interference; it is enough - to quote against its author Tranøy's statement of the main evidence for his case - to be 'justified in denying his right to do any such thing'[16]. This is because of the substantive difference between a person's having a right to do something and his having the type of liberty wherein others (instead of being duty-bound to help or to allow his doing it) just lack the right to require him to abstain.[17] The latter is what is termed a 'privilege' in the following elucidation of 'the case of the shrimp salad':

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[15] Countering any 'weaker sense' of 'permission', for which his principle would not hold, he says: 'Indeed, we might argue that consumers have a right to a free choice of colours [sc. in ties - an 'indifferent' free choice] and, in effect, we take measures to keep such free choice from being made impossible' ('An Important Aspect of Humanism', op. cit., p. 44, his italics; cp. ibid p. 46).

[16] Quoted, p. 259 above, my italics here.

> A,B,C, and D, being the owners of the salad, might say to X: 'Eat the salad, if you can; you have our license to do so, but we don't agree not to interfere with you.' In such a case, the privileges exist, so that if X succeeds in eating the salad, he has violated no rights of any of the parties. But it is equally clear that if A had succeeded in holding so fast to the dish that X couldn't eat the contents, no right of X would have been violated.
>
> Perhaps the essential character and importance of the distinction [sc. between rights and privileges] can be shown by a slight variation of the facts. Suppose that X, being already the legal owner of the salad, contracts with Y that he (X) will never eat this particular food. With A,B,C,D and others no such contract has been made. One of the relations now existing between X and Y is, as a consequence, fundamentally different from the relation between X and A. As regards Y, X has no privilege of eating the salad; but as regards either A or any of the others, X has such a privilege. It is to be observed incidentally that X's right that Y should not eat the food persists even though X's own privilege of doing so has been extinguished.[18]

Assuming that ownership of the salad includes the enjoyment, vis-à-vis other people, of both the right and the privilege of eating it, I interpret the development as follows. In the first paragraph the salad-owners extend to X the privilege of consumption, resigning but not transferring to him the eating rights they possessed (in relation to X) through their (joint) ownership; in consequence, neither side has any right to claim the other should let them have the plate or refrain from eating what's on it. The second paragraph transfers a right instead of a privilege: Y acquires a right to call upon X not to sample the shrimps, so X has signed away his own privilege of doing so - without, however, transferring it to Y, who must rest content with such visual and olfactory enjoyments as the salad may offer. And although a privilege, as defined by Hohfeld, is 'the mere negation of a duty' - to others, singly or generally, to abstain on their demand - 'the "privilege + no-right" situation is... just as real a jural relation as the precisely opposite "duty + right" relation between any two parties'. It is, he says, the legal relation created by the granting of leave or license (as the salad-owners did to X), and it is what obtains under 'a rule of law that permits'.[19]

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[17] Cp. chap. 5, p. 147ff on demands.

[18] Hohfeld, Fundamental Legal Conceptions, op. cit., pp. 41-2.

If so, an authority or set of rules can ensure the continuance of a privilege simply by not granting anyone the right to interfere or, equivalently, by not putting the erstwhile privileged persons under a duty to abstain on others' demand. Forbidding intolerance of some privileged behaviour is an extra protection, not needed to keep people from having the right to interfere, logically and legally distinguishable from whatever deontic status the act may enjoy on its own.[20]

Moreover, the Tranøy - von Wright distinction between rights and claims[21] may be challenged, as being one solely of content, not of deontic status. Given the interdefinability of prohibition and command,[22] a duty imposed upon X to make it possible for Y to do something is simply a different duty from a duty not to make impossible (prevent) Y's performance. When the normative status of the relationship between X and Y is described in terms of what Y may be said to enjoy from his converse standpoint, the difference between the duties cannot give rise to a difference of 'strength' or 'sense'[23] in their correlative 'permissive' equivalents. The right not to be interfered with constitutes an entitlement for the making of a demand or claim neither weaker than, nor different in nature from, the right to enabling assistance. A difference in the behaviour which Y can require of X as a duty towards himself distinguishes one right or claim from another, not two 'species of permission'[24]. Besides,

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[19] Ibid, pp. 38-50, esp. p. 48 fn. 59.

[20] Cp., in the light of this, p. 258f above.

[21] Cf. above chap. 5, p. 115 and, for the terminological differences, this chap., p. 259 fn. 6.

[22] NA pp. 83-4 (also p. 90), quoted above chap. 6, p. 163 fn. 18.

> Liberty shades imperceptibly into opportunity and opportunity into actual giving; and this indeterminacy is inevitable, for there are all possible combinations of effort-sharing in the attainment of what one has a right to.[25]

We may now crystallize out of this discussion a general objection to the procedure of introducing obligation into permissive concepts.[26] A duty on X not to interfere with Y's doing A is neither (i) *sufficient* to give Y a permission for A (that depends on the vertical normative relationship between him and the authority), nor (ii) *necessary* (a) to give Y the privilege to do A without obstruction from X (that is a purely negative feature which the horizontal relationship between X and Y may exhibit simply for lack of a defined deontic status to X's interfering with Y's doing A), or (b) to strengthen and fill out, as a consequence, backing or concomitant, an actual permission from the authority to Y to do A (that can have value within their vertical relationship whatever, if any, be the status of interference with A). Permissions do not borrow their 'normative significance'[27] from obligation; they do not confer freedom by guaranteeing it. Similarly, if permissive rules exist, they must stand as rules in their own right, not as *requiring* freedom (to be maintained on the horizontal axis) but as *granting* it (directly on the vertical).[28]

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[23] As claimed NA pp. 89-90; cp. Tranøy, 'An Important Aspect of Humanism', op. cit., pp. 44-6.

[24] On the equivalence of duties and rights (in the sense of 'claims') as 'jural correlatives', see Hohfeld, Fundamental Legal Conceptions, op. cit., pp. 36-50.

[25] Bernard Mayo, 'Human Rights', Arist. Soc. Supp. Vol. XXXIX, 1965, p. 224. Pace Tranøy and von Wright (references p. 259 fn. 6 above) a duty not to make A impossible, requiring the avoidance of all actions within one's power that would make A impossible, ipso facto binds one to the performance of all one can of what is necessary for A to be possible, and one who resolutely and conscientiously completed his obligations would surely end up with enough (namely, the least his powers encompassed) to make A possible as far as it was up to him to do so. In short, withholding powers of interference is one form of enabling assistance.

[26] Cp. chap. 5, p. 156.

Furthermore, rights, privileges and duties to others are all horizontal relationships holding in and influencing the domain of social interaction. That is what makes feasible analyses of them in terms of interference, toleration, and making something (practically) possible or impossible for another; the latter are as fitting objects of normative cognizance as any other type of action or interaction. But their being so depends upon and presupposes the prior vertical relationship. It by no means follows that these notions are suitable for analyzing relationships on the vertical axis itself, that toleration can render the aim of a permissive utterance or the import of a permissive regulation.

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[27] Tranøy's phrase, quoted p. 257 above.
[28] Cp. pp. 258-60 above.

True, little mention has as yet been made of the further intentions of permitters - unlike those of command-issuers, rational, lazy or tyrannical[29]. But this is as it should be if making something permissible is not thereby to (help) make it practically possible.

However, according to von Wright's account for permissions of the 'intention and reasons involved in normative action'[30],

> If there is an element in permissions which is not reducible to the other norm-characters this element is identical with what we called toleration. Thus, what is characteristically 'permissive' about permissions would be the norm-authority's declaration of his toleration of a certain behaviour on the part of the norm-subject(s). 'Permissions are essentially tolerations', we could say.[31]

The analogue which replaces 'wanting to make an agent do something' when permissive instead of jussive import is conveyed is 'wanting to leave an agent free to do something', a 'will to tolerate'. 'Free' here means free from any sort of hindrance by the authority, not just free from the obstacles imposed by prohibitions - it describes a quite general tolerance in attitude and action on the part of the permission-giving authority. Von Wright's alternative to my own refraining analysis of 'what is characteristically "permissive" about permissions' is thus 'the norm-authority's declaration of his toleration of a certain behaviour'. 'In permitting an act the authority may only be declaring that he is going to tolerate it', but he cannot do less: whatever enjoinments to third parties he may add for the purpose of creating rights and claims, his permission

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[29] Dealt with above chap. 4, p. 76, p. 93ff; chap. 5, p. 142ff; chap. 6, p. 181ff.

[30] NA 120.

[31] NA p. 90.

'is at least a toleration'. Toleration, which consists in the way an indifference as to outcome ('the authority "does not care" whether the subject does the act or not') and a resolution not to hinder are manifested by the authority's consciously and deliberately ('actively') letting certain conduct pass without opposition, is an invariant feature integral to the several so-called 'species of permission'.[32]

To complete the critique of von Wright's account of permission, I shall now argue that the will-theory breaks down over permissions in a manner and for reasons instructive as to their essentially negative and conventional nature. For the relation of a permission to its further outcome is essentially different from that of a command. The argument will apply to 'standing orders' and other general prescriptions in virtue of their being derived from authorities.[33] It will then remain only for a final chapter to argue that these findings can be applied to other rules and to the general notion of permissibility; that is, to show how a permissive rule does not have to be responsible for a new freedom or possibility of action (by allowing or 'tolerating' it) for its operation to mean something other than 'indifference'.[34]

That and how the will-theory is applied to permissions as well as to commands is at least partly determined by its function as a psychological backbone to the ontology of norms whose linguistic basis was criticized in chapter 5. The requirement for this supporting role may be traced to the way ordinary (propositional) logical relations, such as negation, have a different effect (as illustrated in chapter 6) on the fulfilment of the aims peculiar to the speech-acts of commanding and permitting from that found with assertion (and so yield different results for notions such as incompatibility, as also for inference). For this is the source of a problem which von Wright describes as 'much more serious than any of the technicalities of deontic logic': the problem of showing how 'two norms can logically contradict one another', of pointing to 'something which is impossible in the realm of norms'. The difficulty is due to the failure of necessary non-coexistence, which should give 'the ontological significance of the conditions of consistency and compatibility' (defined 'formally' for the prescriptive interpretation in terms of fulfilment-possibilities[35]), to provide an impossibility analogous to the impossibility of the propositions involved in conflicting statements being true together[36]. The failure[37], like that of the exhaustiveness desirable in 'prescriptive' negation[38], is due to von Wright's 'prescriptions' being really deontic propositions about speech-acts (an authority's requiring S to do A): since it is just a plain fact that two conflicting orders can coexist, at least if they stem from different authorities, nothing can be logically amiss with conjoining a pair of deontic propositions to affirm their existence; similarly with a permission and a prohibition with the same or overlapping content.

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[32] NA pp. 88-90, pp. 120-1; cp. chap. 5, p. 156; chap. 6, pp. 182-4 above.

[33] Cf. chap. 7, pp. 227-9.

[34] Cf. Preface, p. 256; also p. 263 fn. 15.

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[35] NA pp. 141-4; cf. quotation chap. 6, p. 193 above.

[36] Cf. chap. 5, p. 130 above.

[37] NA p. 147ff.

[38] Cf. chap. 6, pp. 160-1 above.

Now even a strict speech-act view of commands, prohibitions, and permissions would not license complete pessimism about finding 'something which is impossible in the realm of norms'. Von Wright is concerned because, he says, 'there is no logic in a field in which everything is possible'.[39] In this study, at any rate, it has been argued, especially in chapter 6, that even in terms of speech-act descriptions not everything is possible - limits on possible deontic states of affairs are set by the requirements of coherence in the utterances which 'create' them. But von Wright seeks something more - to transcend the fulfilment criterion (which only points to impossibilities in the realm of conforming action) for sets of rulings as well as single ones.[40]

This is the job of the will-theory. It relates different utterances to each other in terms of the fulfilment of their (non-truth-claiming) purpose through the authority's will concerning what to make or let subjects do, and thereby shows the ontological significance of norm-incompatibility:

> The only possibility which I can see of showing that norms which are prescriptions can contradict one another is to relate the notion of a prescription to some idea about the unity and coherence of a will...
>
> At least so far as prescriptions are concerned, the identification of compatibility with possibility of co-existence is subject to an important qualification. The prescriptions must have the same authority...
>
> Thus, for prescriptions, the ontological significance of compatibility is the possibility of coexistence within a corpus. The consistency of a set of prescriptions means the possibility that the set constitutes a corpus. Incompatibility of prescriptions means

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[39] NA p. 148.

[40] Cp. chap. 6, pp. 192ff.

> the impossibility of their coexistence within a corpus. The inconsistency of a set of prescriptions, finally, means the impossibility, i.e. necessary non-existence, of a certain corpus.
>
> Contradiction between prescriptions can be said to reflect an inconsistency (irrationality) in the will of a norm-authority. One and the same will cannot 'rationally' aim at incompatible objects. But one will may perfectly well 'rationally' want an object which is incompatible with the object of another 'rational' will. Because of the first impossibility, prescriptions which do not satisfy our formal criteria of compatibility cannot coexist with (sic) a corpus of norms. Because of the second possibility, prescriptions which do not satisfy these criteria can yet exist within different corpora, and *in this sense* coexist.[41]

The *possibility* of irrational willing as such is not here denied - only within a *corpus* is a conflict between prescriptions 'excluded as being contrary to the nature of a rational will'[42]. So von Wright does not succeed in pointing to an impossibility in the realm of norms which is 'reflected' in the deontic propositions in whose truth 'lies the reality of norms'.[43] Instead of setting limits to the deontic situations which might be constituted by various realizable combinations of those propositions, he ends, rather, only with such limits as can be set relative to the psychology of a rational norm-issuer. For the qualified coexistence impossibility, whereby the ontological content of a conflict or incompatibility of norms is the impossibility of the prescriptions coexisting unless they dwell apart in different corpora, is equivalent to the internal consistency built into the notion of a corpus as intrinsic to the nature of a rational, coherent will.

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[41] NA pp. 151-2. The passage reinforces the doubt expressed earlier (chap. 5, p. 125 fn. 39) about including in the permanent identity of norms their authority 'component'.

[42] NA pp. 151-2 and p. 206.

[43] Cf. chap. 5, p. 130f and p. 142 above. Contrast (a) DL's appeal to the 'decisive' evidence of ordinary language in favour of its fundamental 'Principle of Permission' ('PA v P Not-A'): 'We seem prepared to reject a use of words, according to which one and the same act could be truly called both obligatory and forbidden' (DL pp. 66-7). From the footnote here referring to the 'relativity' remark quoted chap. 3, p. 41 above it is but a short step to von Wright's present problem. (b) The intermediate (1962) position of 'On Promises', *op. cit.*, pp. 289-93: finding that the idea of 'promising the forbidden...appears to lead to...a *contradiction of deontic logic*' because 'it is plausible to regard it as a logical feature of the concept of an obligation that one and the same act cannot be both obligatory to

No 'absolute' impossibilities not already provided for by the fulfilment criteria can be derived from considerations which do not themselves extend beyond what people can (be made to) do, so there is no guarantee that the prescriptions which an authority actually maintains in force will exhibit the consistency characteristic of a corpus - none, at least, stronger

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do and obligatory to forbear (for one and the same agent on one and the same occasion)', he applies a distinction between being forbidden (i.e. obligatory to forbear) simpliciter and being obligatory only qua promised, in that it is forbidden (simpliciter) to promise something without doing it. The cost of so protecting the idea that a 'head-on' clash of obligations should be impossible is deriving the obligation to keep particular promises from a general obligation to keep one's word. What is required is not another obligation with a conditional content - derived from nowhere and owed to no one in particular - but an explanation of the generalization that every promise creates a (particular) obligation to do the promised act, a certain type of utterance being constituted as a (conventional) reason for action by the rules governing the informal, everyday practice of promising - an 'institution' to which (almost) all speakers of the language belong; cp. chap. 5, p. 144ff and NA pp.184-6.

than the reasons for supposing he is bound to avoid 'contradicting his own will'[44]. For instance, it is only in a corpus (rational by definition) that a norm and its negation-norm cannot both be present, in force, together.[45] So it would seem that von Wright's account of consistency can only yield conclusions about rational and irrational willing, about the rationality of sets of prescriptions considered as stemming from the will of a given authority.

Despite this, a simple corollary of the fulfilment impossibility enables the will-theory to impose severe limits upon prescriptive corpora. Consider a man pushing an object away with one hand while at the same time pulling it towards himself with the other - not in order to test which hand is stronger but 'because he wants to make the object move in the one direction, and also wants to make it move in the other direction'. Such 'incoherence' of will may even indicate a 'split personality', for the man 'acts as two men would act who contested about the object'.[46] Such is the pattern of behaviour, comparable to trying, literally, to have one's cake and eat it, of an authority who essays, seriously, to maintain together a prohibition and a permission for the same object. The irrationality (futility, insanity, etc.) would increase markedly with the obviousness of the logical impossibility of fulfilling the aim (effort, trying, anxiety[47]) manifested by each. For what the owner of the corpus must (does) avoid is not incompatible wants in themselves so much as irrational responses to them in issuing prescriptions ('the normative act is a means to the norm-authority's ends'[48]) - although the contrast between want and response is blunted by a thesis that 'to want something can also mean to pursue it as an end of action'[49].

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[44] NA p. 205.

[45] Cf. above chap. 6, p. 160 with fn. 11 and p. 161 fn. 14.

[46] NA pp. 149-151.

[47] Cf. NA p. 124ff, p. 149ff, p. 157, p. 201, p.205.

The objection that inconsistency of disciplinary conduct is a sufficiently well-known failing of teachers and parents to call for less drastic diagnosis is forestalled by what amounts to a challenge against any assumption that one ruling could be temporarily 'shelved' while another,,duly enacted but contrary to it, was applied in the interval, without cancellation of the first:

> That an authority has prohibited something entails that he can and is prepared to see to it that this thing is not done. He threatens prospective trespassers with punishment, and takes steps to punish those who in fact disobey...he ipso facto also manifests anxiety to make the subjects observe the entailed prohibition[s].[50]

It is not surprising that the alternating whims of parents and kings should fail to disrupt the unity of a corpus if maintaining a prescription in force involves ('manifests') a continuous, consistent effort to obtain the end 'willed' - enforcing the prescription, together with its fellow-manifestations of what the authority wants his subjects (made/allowed) to do. Besides the total aggregate of rulings in force at a given time, as determined by what the authority has and has not said, the element of enforcement added by the will-theory to the concept of a corpus links together the distinct rulings through their connections with other aspects of the authority's activity.[51]

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[48] NA p. 118.

[49] NA p. 114 isolates this as the sense of 'want' relevant to the will-theory, distinguishing it from wishing and from welcoming something if it happens.

[50] NA p. 157, first italics mine.

One striking result is that if forbidding something would involve the authority in inconsistency, then not only has he not in fact done so, but he has actually [emphatically contrasted with 'ought to have'] permitted it. For an attempt to give the inconsistency-threatening prohibition 'would signalize an inconsistency in his will', i.e. 'he would then want or allow things to be done which for reasons of logic cannot be done'.[52]

This inferred permission, however, can hardly be (as claimed) 'as much "willed" as' the expressly promulgated ones from which it is 'derived', since the will to tolerate is so defined as to entail awareness and wanting to leave the agent free[53], neither of which follows from the authority's supposedly anxious enforcement of, say, a set of commands. Enforcement of the latter can ensure the agent's freedom in various respects, but not that the authority wants not to interfere or is in pursuit of tolerant ends - only that, not wanting to interfere, he makes no attempt to do so. Hence the 'derived' permission is indistinguishable from the absence of prohibition, too weak to bear the heavy logical duties of the will-theory.

The point is more general than the example. Not interfering implies, at most, not wanting to interfere; a (positive) will to tolerate, a want (resolve) not to hinder (needed for the theory's logical function) is quite another matter, separate even from the indifference with which von Wright couples it.[54] Not wanting to intervene is neither of these two states, but being prepared, ready or not unwilling[55] to abstain from creating hindrance. This is sufficient explanation of the 'aims and ends (motives) of the authority who granted the permission'[56], as well as all that is actually implied by deliberately tolerating something.

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[51] Cp. chap. 5, p. 121 fn. 27.

[52] NA p. 157, on prescriptive entailment as the necessary existence of certain norms in a corpus, given that of others.

[53] NA p. 86, p. 120, pp. 157-8 - not obviously compatible.

'Prepared to refrain' neither specifies nor implies any further end: it means being ready precisely to leave some matter to the subject. If asked why he refrained from forbidding something, an authority could answer with hopes or plans contingent on the 'right choice' being made, or say 'To enable him to do A'.[57] But it would not normally be appropriate to reply with a 'causal'-sounding 'To get/induce him to...'. Temptations and lurements, yes, but precisely not a 'symbolic incentive to action'.[58] Consequently, there should not be any further aims not mediated by the agent's making a choice according to inclinations and dispositions independent of the utterance, qua permission. To take advantage of a permission should not mean responding or reacting to it, so much as acting in consequence of it.

This 'mediacy' of permitting is connected both with the wants-asymmetry discussed in chapter 4 and with the will-theory's failure to supply permissive analogues to the threat or application of sanctions, to any of the factors indeed which make plausible a view of commanding as manifesting a will or effort to make someone do something, such that giving a command may be explained as a means to that end.[58] But the will to tolerate should normally find effortless execution (apart from irascibility and other failings of self-control). This explains the use of key terms like 'let', 'leave free', 'tolerate' as virtual synonyms; but it leaves the will to tolerate nothing to explain until an answer is given to the question, 'What does the agent do, who lets another do a certain thing?'[59]

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[54] P. 269 above. Indifference as to outcome is no reason to resolve not to interfere, while a determination to keep off is quite compatible with great anxiety that the 'right choice' should be made (see chap. 7, pp. 221-3 on abdication and autonomy).

[55] Cf. chap. 4, p. 110 above.

[56] NA p. 106.

[57] Cp. chap. 5, pp. 150-1 above.

[58] Cp. chap. 4, p. 106 above.

Now the answer should be, 'Nothing in particular; it's what he does not do, and why, that counts'. This is because, to quote from chapter 4: 'The notion of (physically) letting someone do something is an essentially negative one: it is a matter of (deliberately) not interfering...so that a description of what a man is doing when he is letting another be is precisely not a description of how he is doing the latter.'[60] Yet, the minimum to be expected from a will-theory is that permission should be a way of allowing things to happen, as 'commanding is only one among several means of moving people to action'[61]. This minimum cannot be supplied because the crucial want or intention to leave someone free (unless it is simply wanting to permit) needs nothing to satisfy it but the avoidance of steps that might jeopardize the desired freedom. How can some words help, when there is no need to do anything but nothing?

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[58] In particular, only by the exercise of superior strength in punitive threats and measures does the theory suppose commands keep being enforced (cp. NA p. 149).

[59] NA p. 120; cp. 'want/will to let' at NA p.135.

[60] Pp. 99-100 above.

[61] NA p. 119.

It must be conceded that direct interference with the enjoyment of a permission by its donor or any other agency would threaten at least temporary loss of its benefits. But this result alone would not suffice to change the deontic situation. The utility of many permissions is nullified by lack of means (e.g. buying a house in a certain area)[62] or reduced to vanishing point by other rulings impinging upon their exercise (try standing around outside a primary school in session). Only when the presence of permission and interference are viewed together, as resultant from the deliberate will of the (same) authority, can the conjunction take on the paradoxical look of an attempt to keep the subject from doing A while at the same time leaving him free to do it.

But it would be hard to make such an accusation stick without a permissive analogue to enforcement. Consider a sergeant obstructing his men's enjoyment of the leave he himself has granted them, e.g. by locking exit gates or piling on their chores. This alone would not show him manifesting conjointly both a want to let the leave-party be free to spend the evening as they please and a want to prevent their doing so. All it suggests is that he is abusing the leave-procedures in order to torment the men (especially if they are unaware who is responsible).

Admittedly, this is an abnormal purpose for permitting, parasitic for its intelligibility on cases where authorities do not use permissions primarily as means to induce performance of the permitted outcome. The sergeant, with the advantage of knowing how his men will respond to an offer of leave, is able to use his leave-granting powers as bait for his trap. Therein lies the odiousness of his conduct, of the way he abuses the official procedures.

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[62] Pace von Wright's adoption of 'May implies Can', NA pp. 108-9, pp. 122-3.

But the concept of abuse of authority presupposes procedures which preserve the same form when properly as when improperly used. Any attempt to find principles for grouping, under such headings as 'authoritarianism', the vices into which authorities may fall in respect of the manner and purposes with which they operate the procedures at their disposal would need to presuppose the constancy provided by the notion of conventional procedures for commanding and permitting. These explain why the sergeant has only to tire for the men to enjoy a quite legitimate evening out - despite the intolerance they have faced they need no confirmation of their freedom. But for this very reason, it is difficult for the theory to account for permissive language if it is so immune from the sergeant's actual behaviour.

The minimum force ascribed by von Wright to the authority's declaration of a toleration opposite the intolerance declared in a prohibition is 'a declaration of intention...not to interfere'. An imaginary objector intercedes that this 'is not a normative concept at all'.[63] But the objection seems somewhat understated, since a declaration not to interfere not only has truth-value[64] but can be appended to a prohibition without necessarily generating inconsistency; as examples of this, Britain's renunciation of the use of force when forbidding Rhodesia to make a unilateral declaration of independence might be compared with a ban on breaking the bounds of an open prison. And to strengthen the declaration to a promise (however analyzed), thereby making authority **assign** to subject the right to demand conformity, is to reduce the vertical to the horizontal, perhaps even to ask the authority to abdicate.[65]

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[63] NA pp. 88-91, though NA p. 204, p. 206 show the idea finally still left unrejected.

[64] NA p. 104 is emphatic that norm-formulations used to give permissions say nothing true or false.

So consider the sergeant as he stands before his men saying 'Permission to leave granted'. Perhaps at that very moment he is locking the gate before their eyes, as if to say: 'But I'm not going to let you out of the camp'. Alternatively, as the evening wears on, the men may start reading into his destructive visits to their quarters an intention of preventing their enjoyment of his original permission, and take this as an inconsistency cancelling it or revealing that he had simply abused the procedures. But the reason why overtly intolerant behaviour, whether non-linguistic or verbalized in the form of threats or declarations of intention, can in combination with permissions generate such inconsistencies is not that the maintenance of a permission is an exercise of the authority's will to tolerate in which normative and other factors are indivisibly combined. The inconsistency reveals, not an incoherent will but an undiscriminating mind: the incompatibility is logical, not psychological. So far from showing that permission-giving is to be elucidated as a declaration of the sort von Wright proposes, the truth is the reverse: promises and declarations of intention, when made by authorities, and particularly when they concern forms of behaviour which, on the part of an authority, would amount to permitting by 'tacit consent'[66] are liable to have the force of permissions: a form of words normally used for declaring an intention acquires, in the mouth of the speaker with the status of authority over the act mentioned and addressing himself to his subject(s), a force it could not have in other contexts. Among the burdens of an authority's responsibilities is a need to watch his words - for the conventions which make him an authority may endow utterances or even non-linguistic actions on his part with an authoritative force that he cannot disclaim, only cancel by further action to countervailing effect.

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[65] NA pp. 91-2; cp. chap. 5, p. 156; chap. 7, pp. 221-3 above.

[66] Chap. 4, p. 101ff above.

But conversely, he cannot do more with those utterances than exploit the powers provided by the conventions. Whatever he may do or say as fellow-citizen, as an authority he can confer no more by giving a permission for a hitherto undefined act than make 'PA . P Not-A' true in place of 'Not FA . Not PA'. If 'tolerance' in some sense is part of the content of this changeover, it is tolerance of a purely conventional type, and the difference between its presence and absence is simply the difference between the presence and absence of a conventional freedom to act within the jurisdiction of a given authority. For all the permitter does, in such circumstances, is to make clear that he is not forbidding the action in question; the upshot is to keep the situation as it was before, with A not forbidden.[67]

The result is indeed that the agent is left free to do something - but free only from such hindrances as words can encumber him with, not in any more general sense, except per accidens and apart from any further measures the authority may wish to take besides. A 'will to tolerate' should be fulfilled by refraining from interference rather than by doing anything of a positive overt sort. Yet permitting is a case of doing. If it is the doing of something in order, as it were, to refrain from interference, it must itself be a kind of non-interference, a kind which can be accomplished entirely in and by the doing of the act of permitting itself. This restriction to the confines of a speech-act imposes a corresponding limitation on the scope of the interference to be refrained from. At the same time the more modest intention, being simply to refrain in an utterance from interfering in a certain matter, *can* be fulfilled by doing something, namely by doing something with the words appropriate to such 'toleration' as an overt refraining utterance extends towards an action it permits.

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[67] Cf. chap. 7, p. 253f.

Chapter Nine

The Permissible and the Possible

One final task remains: to indicate, if but briefly, what a permissive rule is and how the import of its operation may be understood by analogy with the points argued for in earlier chapters, where the permitted, like the obligatory, was delimited to what had been made so. As such, it was analyzed in terms of a notion of overt refraining utterances, a use of language resulting in A's being maintained as unprohibited by the authority.[1] The chief problem here is thus to find an analogue for refraining in impersonal cases.

Let the last chapter's 'organization' lose its 'boss'[2] without replacement either of him or (even as revision becomes appropriate) of his general edicts. With his existence and deontic responsibility receding into the past and becoming increasingly irrelevant, the issue of his having forbidden A or having refrained from doing so will tend more and more to be replaced by that of whether or not doing A is held to contravene (what would have been) his will - a matter on which interpreters will no doubt differ. Soon, however, even that concern will pass, leaving nothing at stake but whether or not A is held to be in itself a contravention, something wrong.

This fragment of the imaginary organization's history illustrates two related points. (a) Subtract the authority and his edicts - hence his refrainings too - and all that is left of his deontic creations is the fact that A is a contravention of something, the bare wrongness of it. This is the burden of a pure rule, adopted, maintained and followed by mere convention. (b) The result is that what is written in the organization's book of rules and regulations may *state* a rule (say what actions count as infringements of it, formulate it), but cannot *announce* it in the form of a (permanent) promulgation of a ruling; the book cannot be given a performative reading with the authority's voice 'behind' it.[3] And it follows from (a) and (b) together that the disappearance of the authority means the vanishing of any previous distinction of content between what is unprohibited and what is permitted.[4] One notion alone will suffice to represent the import of a 'rule' in the 'strict' sense which is all that is left over from a past ruling utterance:

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[1] Cf. e.g. chap. 7, p. 257ff.

[2] Cf. chap. 8, p. 261.

A wrong   Not-A wrong

Not-A not wrong   A not wrong

The true exhaustiveness of the contradictories here illustrates how any rule - in the 'strict' and, it may be conceded, full and proper sense - divides the realm of human conduct into actions which are and actions which are not at variance with it.[5] Even specification of some particular *set* of rules or principles introduces no restriction: to finesse a king no more infringes a (particular) rule of chess or of a trade-union than it does one of bridge. For a rule is like a line in this, too, that its existing and its separating of actions are indistinguishable aspects of it. That is why to state a rule (in this 'strict' sense) is to say what counts as belonging on which side of some dividing line.

Suppose, however, that with the aid of a (no doubt rough and ready) notion *of the area of a rule's application* a distinction is made between non-infringement and conformity to some rule(s), as follows: an action conforms to a rule if and only if it does not infringe it while falling within its sphere of application. A variety of new terms can then be added to express the notion of conformity to the rules and principles of various spheres: 'right', 'correct', 'proper', 'reasonable', 'decent' (with the adverbial modifiers 'morally', 'according to the principles of good golf', 'constitutionally', etc. available to identify that sphere).

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[3] Cf. chap. 7, p. 223ff.

[4] Cf. chap. 7 *passim*.

[5] Cf. chap. 8, p. 257f with references.

This is a distinction we do use, and despite the difficulty of defining, say, the difference between not having bad manners and conformity to the rules of etiquette[6] such conformity notions are more than specializations of 'wrong/not wrong' to some particular field. Contraries rather than contradictories (due to the third possibility of inapplicability), 'proper' and 'improper', etc. are useful as carrying a specification of some particular set or type of rules which a thing can be said to conform to or violate. And conformity in turn may serve as grounds for a claim that (rationally, owing to the leniency of a profession's code of practice) something can or may be done. Indeed,

> There is, so far as I know, no phrase used to indicate the physical impossibility of doing something that is not also used to indicate that doing it, though possible, would be unreasonable or foolish. Thus we even talk about its being 'impossible to get angry with Jones, because he is so kindhearted' or 'impossible not to smile'.[7]

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[6] Aspects of the issue are debated between Marcus G. Singer, 'Negative and Positive Duties', Phil. Quart., Apr. 1965 and Bernard Mayo, 'Negative and Positive Duties: A Reply', Phil. Quart., Apr. 1966. (Cp. use of 'logical propriety', chap. 3, p. 66 fn. 27 above.)

[7] Nowell-Smith, Ethics, op. cit., p. 203.

The concepts of practical necessity and possibility have so far remained indeterminate except in respect of certain formal features. That, however, is how they should be, since they are as wide-ranging as the idea of a compelling and decisive reason for action.[8] This is not just due to a 'peculiar habit' adopted for ease of exculpation[9]: their utility is due to the very formality (not to be dismissed as vagueness) which makes them everywhere available for the structuring of thought. On the contrary, it is hard to see how there could be deciding which was not sometimes based upon reasons sufficient to make further investigation and deliberation pointless. If there are reasons for action at all, of varying strength, the concept of a 'must', of a reason of maximum strength seems bound to occur.

So consider what may be called the square of practical necessity[10]:

Necessary for S to do A	Necessary for S not to do A
Impossible for S not to do A	Impossible for S to do A
S must do A (S needs to do A) S has to do A	S must not do A S may not do A S cannot do A (S has not to do A)
S may do A S can do A	S need not do A S does not have to do A
Possible for S to do A	Possible for S not to do A
Not necessary for S not to do A	Not necessary for S to do A

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[8] Cf. chap. 5, p. 142ff; chap. 8, p. 259 fn. 6.

[9] The hypothesis of Nowell-Smith, loc. cit.

[10] In this connection, see also chap. 5, p. 151 fn. 98; chap. 7, p. 243 fn. 81.

Examples of the very varied contexts in which sentences constructed with these auxiliaries owe some practical significance to the operation of rules, principles, etc. are: (1) "Democratic congressional leaders said there was no acceptable alternative to [the] Vietnam policy. The time for debate was over, and the party and country must close ranks behind the President."[11]; (2)"'I don't care where she takes us to stay, so long as there's local colour,' said Isabel. 'That's what we're going to London for.' 'I suppose that after a girl has refused an English lord she may do anything,' her aunt rejoined. 'After that one needn't stand on trifles.'"[12] The validity of the relationships of contradiction in the new square ensures that such categorical examples as these either affirm or deny some practical necessity. This necessity may be due to but is not identical with the fact of certain conduct (not) being required by (1) political expediency and the national interest, (2) social propriety. For to speak of what can be done because or although certain rules are in operation - as (1) and (2) implicitly do - presupposes acceptance of those rules as excluding certain alternatives from the range of choice, as being unacceptable [(1)] or too serious to dismiss as a trifle [(2)].[13]

In themselves, however, the rules and principles represented by such abstractions as expediency and propriety lack powers of compulsion, so a possibility allowed by them is merely what can be done according to them, what is allowable under them: the obverse of an impossibility excluded as something it is necessary not to do if they are not to be infringed. This does not yield a conformity notion of the kind explained earlier unless it is taken as what a set of rules 'tolerates' or allows as possible, i.e. permits.

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[11] The Times, 24 Feb. 1966.

[12] Henry James, Portrait of a Lady, Penguin edition, p. 137; cf. also the same author's 'must' quoted p. 1 above.

[13] Cp. chap. 5, p. 149, p. 153 above.

It would be an excess of literalism to object to the idioms whereby something that can (be said to) make it necessary to do A, by constituting a compelling reason for deciding to do it, can also (and with equal propriety be said to) demand or require A as necessary, by forbidding Not-A. But the idioms are different both from each other and from the fundamental 'wrong/not wrong' division on which they are imposed. For only to the extent that the practical possibility of a thing is its permissibility (as with a move considered as defined by the 'constitutive' rules of a game) do rules make for genuine new possibilities of action and enlarge their adherents' freedom of choice. Generally, the statement of an action's permissibility, reporting that it is not prohibited by some abstract 'claimant' such as a rule, morality, the law, or other conformity notion postulated as what allows or 'tolerates' the permissible action, cannot ensure practical possibility, only a 'toleration' such as the last chapter found to extend no further than overt non-interference[14]. That is, the permissible has to fall within the sphere of application of a set of rules so as to be left unprohibited by them.

Applicability is thus the analogue of normative action for contexts where 'permitted' means 'permitted by some rule'. Something like a fictitious authority is needed to refrain from forbidding if in such contexts 'unprohibited' is to amount to more than 'not wrong'. The adoption of such a point of view suffices to block

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[14] Chap. 8, pp. 282-3 above.

Mayo's equation of the permissible with what is not at variance with some rule, considered in various guises (legitimately) contrastive with the prohibited - as the indifferent, as that which is exempted or excluded from the scope of a certain rule, even as that which may be done[15] - but never identified in properly permissive garb because 'Not (FA)' (or 'not wrong') rather than 'Not-FA' is the model for the truth-conditions, and 'prohibitive', as said of a rule, is interpreted as meaning simply 'infringeable'[16]. Even if infringeability is the fundamental property of a rule (and on this, his major contention, I follow Mayo[17]), there are other aspects of rules left for the deontic verbs to bring out.

Thus the aptness of 'may'-formulations for many 'constitutive' rules[18] is better explained by the freedom-enlarging 'creativity' just noted than by their regulating function. For from what prohibition does a general exemption give all the players on a football (soccer) field room to manoeuvre as they please, or a specific exemption license the opening bidder to choose how high to open? By and large, the rules of football, taken as a set defining a game in conformity with them, maintain *under* their authority an absence of prohibition over the positioning of players, though no exemption or licence to such effect would necessarily be stated in a manual for referees[19]. The rules of bridge, on the other hand, positively enjoin the bidder either to make any single bid out of the totality of alternatives or overtly to refrain by 'passing'; here the fact that he may act in any of a number of ways is equivalent to the fact that he must act in one of them, given the general characteristic of games that at each stage some possible move is necessary for its continuance.[20]

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[15] Cf. pp. 256-8 above.

[16] 'Rule-Making and Rule-Breaking', *op. cit.*, p. 23; 'Varieties of Imperative', *op. cit.*, p. 173; *Ethics and the Moral Life*, *op. cit.*, p. 204ff.

[17] Cf. pp. 284-5 above.

[18] Termed on that account 'licences' by Mayo, 'Varieties of Imperative', *op. cit.*, p. 172.

[19] Cp. chap. 7, p. 223ff, where I refrained from following Mayo in taking rules to be a *linguistic* category.

Rules, in fact, can be permissive just to the extent that they can be prohibitive. Basically, a rule is something to be stated - as a difference between failure and success measured by some standard of conduct held to make certain actions wrong.[21] But if the standard is viewed as an external imposition without a relevance connection with the agent's own inclinations, this difference can readily be seen as itself stating what course conduct is to take, as forbidding him to act otherwise than in conformity with the rule. Conversely, if the standard is viewed as waiting upon the agent's own choice for its realization, even in some part of his conduct only, it will take on a permissive aspect towards the relevant action.[22]

Yet another shift of view leads from conceptualization in terms of obligatory-making demands and freedom-granting permissions to their 'must'- and 'may'-outcomes as narrowing or enlarging free choice for one conforming to the rule and following it as an intrinsic feature of his practice. Not that there is an absolute need to form a conformity concept and succumb to its demands for compliance as practical necessities, as if always

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[20] Compare, as a sample of English usage: 'Rules should be laid down prescribing what combinations of symbols of the system are permissible. These are the formation-rules of the system. Expressions framed in accordance with them are called well-formed; and combinations of symbols which violate them are said to be ill-formed.' P.F. Strawson, Introduction to Logical Theory. 1960 ed. (London: Methuen 1952) p. 224, (my italics).

[21] Cp. chap. 8, pp. 257-8 and p. 285 above.

[22] An application of the wants-asymmetry: see chap. 4, esp. p. 107ff; chap. 8, p. 277f above.

> The authority of a moral rule...appears in the agent's readiness to obey a command, derived from the rule, and issued by himself to himself.[23]

A rule, even a moral one, can be followed simply as the way one behaves, or behaves morally, in a given type of situation, as 'the done thing'.[24] But still, the linguistic usages associated with what may be accounted the deontic viewpoint on rules (with permissiveness an intrinsic component)[25] has a certain primacy and superior naturalness thanks to its externality and conventionality, features through which it is able to reproduce (indeed, contain[26]) the function of any rule: to set a standard for the assessment of action.

Judged by this function, any rule(s) under which some type of action is held to be unprohibited, although liable to assessment as satisfying the necessary applicability criteria ('Not-FA'), may be said to have a permissive aspect or to permit this type of action, while yet cutting elsewhere in the area of application the

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[23] Mayo, Ethics and the Moral Life, op. cit., p. 168 - doubtfully consistent with his advocacy of the primacy of rules over commands, quoted above chap. 7, p. 225f.

[24] Cp. Cavell, 'Must We Mean What We Say?', op. cit., p. 93ff (quoted from, chap. 7, p. 229 above) for this and yet other Protean forms assumed by the language of rules.

[25] It is pleasant to be able to close on a note of agreement with NA pp. 6-7, where von Wright too speaks of rules in terms of different viewpoints rather than of an ambiguity introduced into the deontic speech-act verbs by their rule-formulating use (cp. chap.7,p.224ff).

[26] Cf. chap. 4, pp. 76-7, p. 94ff.

'wrong/not wrong' division necessary for proper rule-status. This means that permissibility is a conformity concept, opposed to impermissibility as propriety to impropriety. As such, it must be distinguished from such notions as indifference or its not mattering (from some point of view) whether A is done or not.[27] True, the actual rules which determine that point of view 'may not care' whether A is done in the sense that they permit both A and Not-A. But this 'indifference' is a trivial one, amounting to no more than that if S is permitted to do A or not as he pleases, S is neither obliged nor forbidden to do it. It does not follow that it doesn't matter from any point of view which one is done.[28] An example - a moral one - will serve both to confirm this thesis and to illustrate what use can be made of the concept of the permissible, especially where an issue over rights and wrongs is complicated by a dispute as to what is of (moral) significance and what is (morally) indifferent, where the battle could even center on whether there was a (moral) problem to discuss at all.

Take the dispute of Mr. I and Mr. P in the 'battery chickens' case. Neither belongs to the party of those who think this factory method of raising chickens straightforwardly impermissible (because cruel) or straightforwardly obligatory (to meet present-day food requirements). Both agree that the practice is desirable for economic and social ends. Yet they disagree importantly as to whether certain aspects of the situation are morally significant. For Mr. I, if any moral issues are involved at all they are exhausted by considerations of satisfying human needs at the lowest possible cost; he dismisses as sentimental anthropomorphism any concern for the alleged suffering of the chickens. For Mr. P, on the other hand, the chickens' feelings do count; it is a matter of (moral) regret if for the sake of higher ends, chickens are deprived of the joys of running round the barnyard. Since certain of his moral values bear relevantly upon the issue, the most favourable judgment he is likely to produce is that raising chickens by this method is permissible, i.e. excusable in the manner of its deviation from a standard or principle.[29]

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[27] Cf. Preface, p. 256.

[28] Cf. Tranøy, 'An Important Aspect of Humanism', op. cit., p. 41: 'There is in the notion of the indifferent a psychological element of "I don't care" which is, of course, not expressed by "(PA . P Not-A)"'; cp. DL p. 61 and above chap. 8, p. 269, p. 277 fn. 54.

Now it is a condition of there being a moral issue here that Mr. P's views on how chickens are reared to feed him should have a moral aspect. But these views can only take the shape described given the further condition that he regards the principle which loses in the clash as one that continues to apply, but without the same insistence upon conformity that would accompany it in a conflict-free situation. This 'toleration' of infringement is the burden of his judgment of permissibility and explains why 'permissible' may so often be glossed as 'excusable in the circumstances'. The result of an enforced choice between quite 'intolerable' alternatives (with neither principle yielding permissively) should not be so described; nor should the import of an exemption which relieves one principle of its present application.

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[29] Dramatized from evidence submitted by expert bodies to a committee on intensive livestock husbandry, as reported in the Times, 27th Jan. and 13th Feb. 1965. Having taken stances analogous to those here described, one body produced a series of uncomfortable compromises, the other a virtually non-moral set of recommendations, accompanied by justification rather than excuse for the procedures of such husbandry.

If, then, such a case of permissibility is conceived as a rule or principle relaxing in the face of the special claims of human needs its requirement of humane treatment of other animals, the moral realm will admit the notion only over the same area as its coordinate idea of a moral requirement ('obligation' in the stricter uses which are not just reformulations of an 'ought'[30]); this will depend on how the individual structures his moral thinking,[31] but it is unlikely to embrace the whole. This correlativity of permissibility with requiredness[32] explains why the common journalistic idiom which speaks of, say, permissibly simplified presentations of well-known novels[33] is much less satisfactory than the use of permissive notions in authority-free realms of discourse where rules or laws are well-established.

For example, the 'laws of logic' are not owed to any authority, yet the logically permissible is not uncommonly appealed to.[34] It may be said that the 'authority' is whoever makes the judgment of permissibility; but even one able to issue an authoritative verdict (something the journalist-critic can hardly equal) has not the authority to permit the view or to forbid it.

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[30] Cp. chap. 5, p. 146 above.

[31] Cf. R.B. Brandt, 'The Concepts of Obligation and Duty', op. cit. (H.L.A. Hart, 'Legal and Moral Obligation', op. cit., 'The Concept of Law', op. cit., p. 151ff and Joel Feinberg, 'Supererogation and Rules', op. cit. restrict the 'institutional' notion of an obligation in ways that I respond to.)

[32] Cp. chap. 5, p. 147.

[33] As in e.g. Maurice Richardson's column, The Observer (London), 29 Nov. 1964: '[The] adaptation was a permissible simplification. Much of the family background had to be taken for granted, but the three chief characters were just strongly planted enough.'

Morality for many people is intermediate between the state of affairs prevailing in aesthetics and that in logic. The principles on which they base their moral judgments were not laid down by moral authority - or if they were, it is not that which gives them their force but rather their acceptability on other grounds. Only acknowledging a moral authority makes the morally permissible equivalent to what is permitted by a permitter; only conceiving a principle as enjoying authoritative status over one allows the application of authority-derived concepts, to which the moral submits less readily than the logical - but still with far greater comfort than any idea of the aesthetic proprieties can offer. Moreover, to the extent that the authority pattern is allowed to rule, there remains no logical gap between 'permitted' and 'permissible'. Within the frame of reference in which an act is permitted it is also permissible, and vice versa. That is why people can agree that raising chickens by the battery method is legally permissible/permitted and differ as to whether it is morally permissible/permitted. While they may also dispute over whether the practice ought (morally) to be permitted by law, they need not do so, for what ought or ought not to be permitted is a separate question from what it is (morally) all right to do.

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[34] Cf. Bertrand Russell, 'Meinong's Theory of Complexes and Assumptions', Mind, N.S. Vol. XIII, 1904, p. 351: 'This view is one which, whether logically permissible or not, certainly commends itself to direct inspection' and Lester Meckler, 'On Goodman's Refutation of Synonymy', Analysis, Jan. 1954, p. 69: 'Is it permissible to assert the pervasiveness of fallible inference on the basis of fallible inferences?'. Cp. Ludwig Wittgenstein, Tractatus Logico-Philosophicus, 1921, 5.473 and 5.4733.

Whether, as in the law, there are authoritative methods for settling what is and is not wrong by reference to certain recognized rules depends upon the field in question. Whether those rules are thought of as forbidding and permitting depends upon the way in which the authority model is found useful to conceptualize them. For questions of permissibility are settled either by determining what the relevant authority has done with respect to permitting the act or, in the absence of an authority, by assessing whether the act is (was or would be) all right to do.

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